

The names of the Jury
of life and death



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Enter'd in the

London : I

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Enter'd in the

London : I

THE
TRYAL
Of Lieutenant Colonel
John Lilburn.

By an Extraordinary or Special Commission, o^{ne} and Terminated at the Guild-Hall of London, the 18th, 25th, and 26th, of October, 1649, and availed
Being exactly Pen'd and taken in Short-Hand, as it
was possible to be done in such a Crowd and Noise,
and Transcribed with an Infallible Hand,
both in Reference to the Counterfeiting of Bills
that so Matter of Fact, as it was there Declared,
might truly come to Publick View.

In which is contain'd the Names of all the Judges, Grand
Inquiring and Jury of the Grand Jury.

By THEODORAS WILSON.

The Second Edition.

Esther, ver. 13. and 16, 12. ver. 2, 3, 4.

Then Mordecai answered to answer Esther, Think not with thy self that
thou shalt escape in the King's House, more then all the Jews. Behold,
God is my Salvation. I will trust and not be afraid, for the LOR D
JEHOVAH is my strength, and my Song, he also is become my Salva-
tion. Therefore with joy shall ye draw water out of the wells of Sal-
vation. And in that Day shall you say, Praise the LOR D, call upon
his Name, declare his doings among the People, make mention that his
Name is exalted.

Enter'd in the Hall-Book of the Company of Stationers, pursuant to Act
of Parliament.

London: Printed for and Sold by H. Hills, in Black-fryars.

3 H. T.

J A Y E

AT the earnest Desire of the Printer,
I have read this following Discourse, and cannot say but that I do verily believe, the Pen-man of it hath done it with a very indifferent Hand betwixt the Court, and my self the Prisoner: And so far as in me lies, I am for my part willing, the World should see it.

Southwark, this 28. of

November, 1649.

John Lilburn.

THE

TRYAL

Of Lieutenant-Colonel

JOHN LILBURN,

At the Guild-Hall of London the 24th of
October, 1649. being Wednesday.

THE Commissioners Names of the Extraordinary Commission of
Oyer and Terminer, for the Tryal of Lieutenant-Colonel John
Lilburn, then followeth,

Thomas Andrews, Lord Mayor.

Richard Kebble, L. Commissioner.

Philip Jermyn, Justice of the Upper
Bench.

Thomas Gates, Baron.

John Philpot, Justice of the Com-
mon Pleas.

Francis Thelphus, Baron and Member.

Rob. Nicholas, Member, Justices of the

Richard Ask, upper Bench.

Peter Warburton, Justice of the Com-
mon-Pleas.

Alexander Rigby, Baron, but absent.

Sir Thomas Fruiter.

Sir Henry Holcroft.

Sir William Roe.

Sir Richard Saltonstall.

Sir Richard Sprigall.

Sir John Wooliston.

Sir William Roberts.

John Green,

John Clarke, Serjeants at Law.

John Parker,

William Steele, Recorder.

John Potts,

Thomas Post,

John Kendrick,

Thomas Cullum,

Simon Edmonds,

Samuel Avery,

John Dethicks,

Rob. Titchburn,

John Hayes,

> Aldermen.

Henry Proby, Common Serjeant.

Thomas Brigandine.

Nathaniel Snape.

Edward Rich.

Owen Roe.

Tobias Little.

Austin Wingfield.

Richard Downton.

Daniel Taylor.

William Wibend.

Silvanus Taylor.

At the Guild-Hall of London, the 25th of October 1649, being Thursday, at the Tryal of Lieutenant Colloonal John Lilburn.

O Yes made, All persons that were adjourned to the Court required to make their Appearance.

The Lieutenant of the Tower of London Col. *Francis West* called, to bring forth his Prisoner according to the Precept.

Whereupon Col. *West*, Lieutenant of the Tower, brought up the Prisoner out of the Irish Chamber, where he had been some time before the sitting of the Court, and was guarded by the said Lieutenant, and a special Guard of Souldiers besides. And being brought to the Barr, the Sheriffs of London were directed to take the Prisoner into their Custody.

Silence Commanded.

Cryer. John Lilburn, Hold up thy Hand.

Lieut. Col. *Lilburn* directed himself to Mr. *Kable*, one of the Keepers of the Great Seal, as the President of the Court, and said to this purpose: Sir, will it please you to hear me; and if so, by your favour thus: All the Priviledge, for my part, that I shall crave this day at your hands, is no more, but that which is properly and singly the Liberty of every Free-born Englishman; viz. The Benefit of the Laws and Liberties thereof, which by my Birth-right and Inheritance is due unto me, the which I have fought for as well as others have done, with a single and upright Heart; and if I cannot have and enjoy this, I shall leave this Testimony behind me, that I died for the Laws and Liberties of this Nation; and upon this score I stand, and if I perish, I perish. And if the Fact that I have done, cannot be justified by the Law of England, let me perish; I mention none of this for the gaining of Mercy, or by way of Merit, no, I scorn it; for Mercy I crave from none but from the hands of my God alone, with whom I hope, and am assured one day to rest; whom I have set before my eyes, and so walked, as believing I am always in his Presence, in whose Power my Confidence is fixed, whom I take and own to be my stay, my staff, my strength and support, and in whom I rest as the life of my life, and whom I hope to meet with joy, when this fading and uncertain life shall have an end, to live with him in Glory and Blessedness for evermore. And therefore, because I would not willingly trouble you with many words, to cause you to spend your time impertinently; therefore, Sir, in reference to the Court, I shall crave but so much liberty from you as was given to *Paul*, when he pleaded for his life before the Heathen Roman Judges, which was free liberty of speech to speak for himself, the which I now humbly crave as my Right, not only by the Law of God and Man, but also by the Law and Light of Nature; And I shall do it with that respect, reason and judgment,

sions, that doth become a Man that knows what it is to plead for his life: I hope God bath given me ability to be master of my own Passion, and endowed me with that Reason, that will dictate unto me what is for my own good and benefit.

I have several times been arraigned for my Life already. I was once arraigned before the House of Peers for (sticking close to the Liberties, and Privileges of this Nation, and those that stood for them) being one of those two or three Men that first drew their Swords in *Westminster-Hall* against *Col. Lansford*, and some Scores of his Associates. At that time, it was supposed, they intended to cut the Throats of the chiefe Men then sitting in the House of Commons; I say for this, and other things of the like nature, I was arraigned by the King's special Command and Order, the First of May 1641. I mention it to this end, that when I came before the House of Peers, where was above three or fourscore Lords then sitting at the beginning of the Parliament; (who then were supposed the most arbitrary of any Power in *England*) yet I had from them free liberty of speech to speak for my Life at their Bar, without check or control in the best manner, all those abilities God had given me would enable me; and when I was at *Oxford*, I was again arraigned as a Traitor before the Lord Chief Justice *Heath*, for levying War at the Command of the then Parliament against the Person of the King; and when I came before him in the *Guild-Hall* of *Oxford*, he told me (there being present with him (as his fellow Judge) Mr. *Gardiner* (sometimes Recorder of the City of *London*) now Sir *Thomas Gardiner*, and others that sat by a Special Commission of *Cyuu* and *Terminis* from the King; tho' which Commission did not so well then understand, as I hope I do now. And my Lord Chief Justice *Heath* stood up, and in the face of all the Court, and in the face of all the Country present, there told me; *Capt. Libbarn*, you are brought here before us for High-Treason, for levying War in *Oxfordshire* against your Sovereign Lord and King; and though you be now in a Garrison, and were taken in Arms in open Hostility against the King, (yea Sir, and I must now tell you in such Hostility, that we were but about Seven-hundred Men at *Branford* that withstood the King's whole Army in the Field, about five hours together, and fought it out to the very Sword's point; and to the Butt-end of the Musket; and thereby hindred the King from his then possessing the Parliament's Train of Artillery, and by consequence the City of *London*, in which very act I was taken a Prisoner, without Articles of Capitulation, and was by the King and his Party then looked upon as one of the activest Men against them in the whole Company;) yet, said Judge *Heath*, we will not take advantage of that, to try you by the Rules of arbitrary Marshal Law, or any other arbitrary ways; but we will try you by the Rules of the good old Laws of *England*; and whatsoever Privilege in your Tryal the Laws of *England* will afford you, claim it as your Birth-right and Inheritance, and you shall enjoy it with as much freedom and willingness, as if you were in *Westminster-Hall*, to be tryed amongst your own Party; and this we will do for that end, that so at *London*.

do your Friends shall not have any just cause to say, we murder'd you with Cruelty, or denied you the Benefit of the Law, in taking away your Life by the Rules of our own Wills. Nay further, said he, Capt. *Lilburn*, it is true, I am a Judge made by my Sovereign Lord the King, according to his Right by * Law, and so in a special manner am his Servant and Counsellor, and am to act for his good, benefit and advantage: And yet notwithstanding, it is by the known Laws of this Land my duty, to be indifferent and free from partiality, betwixt my Master and you the Prisoner, and I am specially bound unto it also by my Oath; and therefore you shall have the utmost Privileges of the Law of *England*, which is a Law of Mercy, and not of Rigor, and hath the Life of a Man in tenderest and highest estimation; and therefore, it is the duty of a Judge by Law, to be of Council with the Prisoner, in things wherein by his Ignorance, he falls short of making use of the benefit of the Law, especially when he is upon the tryal of his Life: Yes, and to exhort him to answer without fear, if he perceive him daunted, or amazed at the Presence of the Court; yes, it is my duty to carry my self with all fairness and evenness of hand towards you; And wherein that there shall seem any mistakes to appear, in circumstances or formalities, to rectifie you; For it's my duty to help you, and not to use any boisterous or rough language to you in the least, to put you in fear, or any ways prevent the freedom of your defence: and according to the Laws of *England* this is my duty, and this is the Law. And accordingly he gave me liberty to plead to the Errors of my Indictment, before ever I pleaded Not Guilty; yes, and also became willing to assign me what Council I pleased to nominate, freely to come to Prison to me, and so consult and advise with me, and help me in point of Law: This last he did immediately upon my Pleading to the Indictment before any Fact was proved; All which is consonant to the Declared Judgment of Sir *EDWARD COKE*, that great Oracle of the Laws of *England*, whose Books are Publish'd by Special Orders; and Authority of Parliament for good Law, who in his 3. part *Institutes*, Chap. Of High-Treason, fol. 29. 34. compared with fol. 137, 230. asserts the same.

Truly, Sir, I being now come before you to answer for my Life, and being no professed Lawyer, may, through my own Ignorance of the practice part of the Law, especially in the Formalities, Niceties and Punctilio's thereof, run my self with over-much hastiness, in snares and dangers that I shall not easily get out of: And therefore being all of a sudden bid to hold up my Hand at the Barr, I cannot chuse but a little demur upon it; and yet with all respect to you, to declare my desirableness to

* See the 27th of Hen. 8. chap. 24.

† See the 2. part, Inst. fol. 28. 30. 42. 43. 53. 315. 316. 591, & 3. part, fol. 34.

‡ Which Orders are dated May 12. 1641. and June 3. 1642, you may at large read at the last end of his 2d part. *Institutes*.

keep within the bounds of Reason, Moderation and Discretion, and so to carry my self as it doth become a Man that knows what it is to answer for his Life.

And therefore in the first place, I have something to say to the Court above the first Fundamental Liberty of an *Englishman* in order to his Tryal, which is, That by the Laws of this Land, all Courts of Justice always ought to be free and open for all sorts of peaceable people to see, behold, and hear, and have free access unto: And no Man whatsoever ought to be tried in Holes or Corners, or in any place where the Gates are shut and barr'd, and guarded with Armed Men: And yet, Sir, as I came in, I found the Gates shut and guarded, which is contrary both to Law and Justice.

Sir, the Laws of *England*, and the Privileges thereof, are my Inheritance and Birth-right: And, Sir, I must acquaint you, that I was sometimes summoned before a Committee of Parliament, where Mr. *Corbet*, and several others, have had the Chair; and there I stood upon my Right by the Laws of *England*, and refused to proceed with the said Committee, 'till by Special Order they caused their Doors to be wide thrown open, that the People might have free and uninterrupted Access to hear, see, and consider of what they said to me, although I think the Pretence that I am now brought before you for, be the very same in substance, that I was convened before Mr. *Corbet* for, which was about Books; and I am sure there I did argue the Case with him, and the rest of the Committee, soundly out in Law; proving, that they were bound in Law and Justice, freely to open their Doors, for the free Access of all sorts and kinds of Auditors: And I did refuse (as of right) to proceed with them, 'till by Special Order they did open their Doors. For no Tryal in such cases, ought to be in any place, unless it be publick, open and free; and therefore if you please, that I may enjoy that Legal Right and Privilege which was granted unto me by Mr. *Miles Corbet*, and the rest of that Committee, (when I was brought before them in the like Case that now I am brought before you:) Which Privilege I know to be my Right by the Law of *England*, I shall, as it becomes an understanding *Englishman*, (who in his actions hateth deeds of darkness, holes or corners), go on to a tryal. But if I be denied this undoubted privilege, I shall rather die here than proceed any farther. And therefore foreseeing this before-hand, and being willing to provide against all jealousies of my escape, the fear of which I supposed might be objected against me as a ground to deny me this my legal right; and therefore before-hand I have given my engagement to the Lieutenant of the Tower, that I will be a faithful and true Prisoner to him.

And I hope the Gentleman hath so much experience of my faithfulness to my word, that he doth not in the least question or scruple it; I am sure he hath often so declared to me that he doth not.

Nay, I have not only ingaged to be a true Prisoner in the Tower to him; but I have also solemnly ingaged to him, that I will come civilly and peaceably with him; and that I will go civilly and peaceably back with

him again. And that if any tumult or Up-roure shall arise to the wroide, of which I lose him, and be me, or in case I should be any wayes by Force and Power rescued from him, I have also faithfully engaged to him, that I will come again to him (by the assistance of God) as soon as ever I can get away from that force or resone. And all this I intreated him to acquaint you with, that all jealousies and disputes might be avoided.

Judge Kebble, *Mr. Lilburn, look behind you and see whether the Door stands open or no.*

L. Col. Litt. Well then, Sir, I am satisfied as to that. But then in the next place, I have read the *Petition of Right*, I have read *Magna Charta*, and abundance of Laws made in confirmation of it; and I have also read the *Act that establisheth the Star-chamber*, which was made in the Year 1641. which last recited Act expressly confirms those Statutes that were made in *Edward the third's time*, which declares all *Actos, Laws and Statutes* that were made against *Magna Charta*, to be null and void in Law, and holden for Error.

In the reading of which Laws I do not find a special Commission of *Oyer and Terminer*, to be legall and warrantable. I beseech you Sir do not mistake me; for I put vast difference betwixt an ordinary and common Commission of *Oyer and Terminer*, for holding ordinary and common Assizes and Sessions, and betwixt an extraordinary and special Commission of *Oyer and Terminer* to try an individual person or persons, for a pretended extraordinary Crime; the Law I last recited, and the Fundamental or Essential Basis of freedom therein contained, knows no such Name or Commissions of special *Oyer and Terminer*.

And those Statutes in *Edward the first*, and *Edward the third's time*, that doth erect those special and extraordinary Commissions, and warrant the usage of them, are merely irrational innovations upon our

* And excellent to this purpose is Lieutenant Colonel Lilburn's Argument, in his second Edition of his Picture of the Council of State, page 8, against the erection of extraordinary Courts, which thus followeth: He granting that the Parliament hath power to erect a Court of Justice to administer the Law, provided, that the Judges consist of Persons that are not Members of Parliament; And provided, the power they give them be universal, that is to say, to administer the Law to all the People of England indefinitely, who are all equally born free alike, and not to two or three particular Persons solely: the last of which for them to do is unjust, and altogether out of their power, &c. which Argument or Reason is most notably illustrated and enlarged in the second Edition of the legal fundamental Liberties of England, revised of the 3. of June, 1649, page 72.

indubitable Rights contained in *Magna Charta*, and meer Court and Prerogative devices to defroy the best of Men, by an extraordinary Court appointed to prejudge proceedings that should manfully stand in the way of the Prince, or any of his great Favourites; for sure I am from the Petition of Right, no ground or foundation for any extraordinary or special Commission of *Oyer and Terminer*, upon any pretended special, or great occasion cannot be founded; but rather the absolute quite contrary, as to me clearly appears by the very plain letter of that most excellent Law, and therefore such a special Commission upon any pretended occasion, being expely against our undubitable Rights contained in *Magna Charta*, and the *Petition of Right*, viz. that no Englishman shall be subjected to any other Tryal, but the ordinary universal and common Tryals at ordinary Assizes, Sessions, or Goal-deliveries, and not in the least to be tryed by extraordinary and special prejudged, packed, over-awing Commissions of *Oyer and Terminer*: and therefore all such extraordinary and dangerous Tryals are absolutely abolished, by the late Excellent Acts that confirms the *Petition of Right*, and all and every of the Clauses therein contained, and abolishest the *Star-Chamber*, both made, *Anno. 1641.*

And Sir, with your favour, the theo Parliament that made the last recited Laws, were so far from countenancing any special Commissions of *Oyer and Terminer*, upon any special or pretended great occasions whatsoever that I can read of, That I rather find and read the Parliaments proceedings in the year 1641. An extream Out-cry of the House of Commons, against special Commissions of *Oyer and Terminer*, with a great deal of bitterness and venomency, as may fully and clearly be read in that excellent Argument of Mr. Hide, *April 1641*. Printed and published in a Book, called *Speeches and Passages of Parliament*, page 409. to 417. which I have here at the Bar to produce, which Mr. Hide was then the special and appointed mouth of the House of Commons before the Lords, who unto them in conformity to his Commission from the the House of Commons, complains to the House of Lords extreamly of a special Commission of *Oyer and Terminer*, that was exercised in the five Northern Counties of England, and earne ly in the name of the House of Commons, craves the special assistance of the House of Lords, to pluck up that Court by the very Roots, founded upon a special Commission of *Oyer and Terminer*, being so illegal and unjust in the very foundation of it, as it is inconsistent with the Peoples liberties, and as that which defroyed and disherited all the people that were tryed, both of their Birth-right, and Inheritance, viz. Their Liberties and Freedoms contained in *Magna Charta*. And this Sir, was the declared and avowed judgment and opinion of the House of Commons in *April 1641*. in their primitive purity and non-defilement, when they acted bravely and gallantly for the universal Liberties and Freedom of this Nation (and not self-interest) when they were in the Virginity of

their Glory and Splendor, as he there fully and most excellently declares and yet he there gives an extraordinary reason for the original erection of that Court founded upon a special Commission of *Oyer and Terminer*, as can be rendered.

The original reason or occasion of which he there declares to be this, that by reason of the suppression of the Abbys in the 27. of *Henry the eighth's time*; in the *North of England* (through discontent therat) there did arise from the said 27. year to the 30. no fewer than six grand Insurrections, most of them under the Command of some eminent Man of those Countries, which Insurrections and Rebellions occasioned the levying of great Armys which had like to have set the whole Kingdom in an universal flame: for the suppressing and preventing of which in future times, King *Henry the 8.* caused a special Court to be erected, by a special Commission of *Oyer and Terminer*, which Court also continued in *Edward the fifth's time*, *Queen Mary's*, and first and seventh of *King James's*; The Basis of which Commission, was founded upon those fore-mentioned innovating Statutes, made in *Edward the second*, and *Edward the third's time* *; which special Commission of *Oyer and Terminer* was several times renewed by the late King *Charles*, in the fifth, eighth, and thirteenth year of his Reign. And the said Mr. *Hide* there in his Argument or Speech which I have here in print, names several of the Presidents of that illegal Court of special Commission of *Oyer and Terminer*; and he there also declares in what an extraordinary manner, and upon what an extraordinary occasion it was granted, which was so great, as that a greater could not be imagined; and yet notwithstanding he declares, that this extraordinary Commission, which being granted to suppress and quiet those many extraordinary Insurrections and Rebellions, which do not admit of so long delay as times of ordinary Tryal, in times of Peace, when the Ordinary, Legal, and common Courts of Justice are open and free will do, when peace and quiet is in the Nation, as now it is; and yet for all that he condemns it for illegal.

And therefore Sir, admit my actions in their tendency to be as dangerous and heinous as any of my Adversaries can imagine or declare them to be, yet they are but in Ashes, but in the Hearth, they are not broke out into visible and violent hostile actions; and therefore I say, if special Commissions of *Oyer and Terminer* granted in such special and transcendent cases as those in *Henry the eighth's time* were illegal, much more must a special Commission of *Oyer and Terminer* granted to try me barely for words, or at most, for pretended Writings or Books, at such a time when there is no burning flame of Insurrections or Rebellions in the King-

* Which were *Westminster*, the Second being the 13. of Ed. 1. c. 29. and 2. Ed. 3. c. 2. and 34 Ed. 3. c. 16.

Kingdom, but all in visible peace, and all the ordinary Courts of Justice open, and I and my Friends have often sought to enjoy the benefit of the Law in a Legal Trial, from first to last, but could never enjoy it in the least measure, although many Sizors and Sessions have past over my head since my first Commitment, now seven months ago, at the first of which, in the County where my pretended crime was committed, I ought by Law and Justice either to be Tryed or Acquitted; so that Sir, by what I have already said, you may see the judgment and opinion of the House of Commons upon special Commissions of *Oyer and Terminer* in their first purity, when as a full House, there being constantly 4 or 500 of them sitting in the House as the deputed and chosen Trustees of the People of England, whose opinion was to damn them, and pluck them up by the Roots, as unjust and illegal in their original Institution, which they have accordingly done, and declared to the whole Nation in the Act that abolished the Star-chamber; where that Court spoken against by Mr. Hide, is specially damned and pulled up by the Roots: So that now in Law I cannot see how special Commissions of *Oyer and Terminer* can be legal at this present, admit the Power never so just from whom it comes, but abundantly much more seeing there is no actual War, nor popular Insurrections; which if lately there had bin any, and yet were overcome, there is no pretence of ground by the good old Laws of England, for any extraordinary proceedings against any man, although he had bin in Arms against you, but he ought to have the benefit of the ordinary accustomed and common Tryals at the Common Law, as clearly appears by the express words of the Petition of Right. * But I was never in any horrible manner against those that are the present Governors of the Nation, but have been under their command in several battells in the Nation, and have hazarded my life for them, and never yet in the least changed my original or first Principles, nor never was engaged in the least in any horribilitie against them, but have always, since I five years ago gave over my Command, lived in peace and quietnes in mine own house and abroad, and was the same day at the House of Commons door, that their Votes passed against me, declaring me in general (which in Law signifies nothing) to be a Traitor; and spake with a Gentleman that is now a Judge amongst your selves (viz. Mr. Rigby) at the House door, who in some great ones names proffered me large matters if I would do as I should be directed by them; after this I went home to mine own house in Southwark, where I stayed in peace and quietnes, well enough knowing the Votes that that day past against me, without either particular accusation, or accuser, or any such thing; where I stayed, when as I might easily have escaped the hands of mine enemies, and been gone;

but

* Of which judgment Sir Edw. Cook is positively in part 2. Instit. f. 48. and part 3. f. 52. in Th. Earl of Lancasters case; which is singular well worth the reading. See also part 1. Instit. f. 13. n.

But having the sweet peace of a good Conscience within me, which did assure me that I had done nothing that was against the Welfare of the Nation of *England* in general, nor against the Welfare of any one particular man in *England*, but really wisht it well, and all its well-wishers.

I say that notwithstanding my certain knowledge of all that the House had pass against me, and although I also knew that the further design against me, which was, that the Council of State (as they are called) would take me away thereupon with Armed force the next Morning, yet notwithstanding all this, I stirred not out of my House, but remained there till about five a clock the next Morning, at which time 2 or 300 Armed Horse and Foot (without so much as one Civil or Magisterial Officer with them) came by force of Arms, and haled me out of Bed from my Wife and Children, not according to the Law of *England*, as is expressly provided in two several Statutes, *viz.* the 1 of Ed. 6. Chap. 12. and 5. &c 6. of Ed. 6. Ch. 11. by which Rules of the Law, and no other, they ought to have proceeded against me from first to last; and I am sure they both expressly provide, that if any Man be accused of Treason, that he shall be accused first to one of the Kings Council, or to one of the King's Justices of Assize, or else to one of the King's Justices of the Peace, being at the *Quorum*, or to two Justices of the Peace within the Shire where the same offence or offences shall happen to be done or committed.

But contrary to these and other wholesome and good Laws (although there hath been an eighth years War in *England* (pretendedly) for the preservation of the Laws and Liberties of *England* yet I say, contrary to the express Tenor of these Laws, as also of the Petition of Right, yea and also of the express Letter of that excellent Law that abolished the Star-chamber this Parliament) was I by force of Arms (that never fortisid my House against the present Power, nor never disputed any of their Summons, though sent by the meanest man that ever appertained to them, and who if they had sent their Warrant for me by a Child, I would have gone to them) I was ferched out of my Bed in terror and affrightment, and to the subversion of the Laws and Liberties of *England*, and led through London streets with hundreds of Armed Men (like an *Algier* captive to their main-Guard at *Pauls*, where a mighty guard stayed for the further conducting me by force of Arms to *Whittemore*: Now Sir, if I had committed Treason, I ought not to have been apprehended and proceeded against by Armed mercenary Souldiers, but by Civil and Magisterial Officers, and no other; according to those excellent privileges that the Parliament themselves in the year 1641. in their own Book of Declarations, p. 36, 37. 76, 77. did claim for those

* See also to this purpose part 36 of Cooks Insti. Ch. High-Treason, s. 26, 27, 28. and part 1. Parl. Declar. in the case of the Lord Kynaston; and the 5 Members; p. 38, 39, 76, 77.

Ex Members, with the Lord Kinsbullen, Mr. Pym, Mr. Hollis, Mr. Strad, Sir Arthur Hopteridge, and Mr. Harpenden; I say and aver, I ought to have had the Process of the Law of England, due Process of Law according to the forementioned Statutes and Presidents, for I never forceably resisted or contended with the Parliament, and therefore ought to have had my Warrant served upon me by a Constable, or the like Civil Officers, and upon no pretence whatsoever, ought I to have been forced out of my Bed and House by Mercenary Armed Officers and Soldiers. But Sir coming to White-Hall, I was there also kept by Armed Men, contrary to all Law and Justice, and by Armed men against Law: I was by force carryed before a company of Gentlemen sitting at Darby-house, that look upon themselves as Authorized by the Parliament, to be a Committee or Council of State, (who by the Law I am sure in any kind had nothing at all to do with me in cases of pretended Treasons) where I was brought before Mr. John Bradshaw, sometimes a Councillor for my self before the House of Lords against my unjust Star-chamber Judges; who there in my behalf Feb. 1645, did urge against the Lords of the Star-chamber as the highest Crime against the Liberties of the People that could be, as being Illegal, Arbitrary, and Tyrannical, that the Lords in Star-chamber should censure me to be Whipt, Pillected, &c. for no other cause but for refusing to answer their Interrogatories against my self; and when I was brought before the sad Council of State, I saw no Accuser, no Persecutor, no Accusation, nor Charge, nor Indictment, but all the Crime that there was laid unto my Charge, was Mr. Bradshaw's very seriously examining me to Questions against my self; although I am confident he could not forger, that himself and Mr. John Cok were my Councillors in Feb. 1645, at the Bar of the House of Lords, where he did most vehemently aggravate, and with detestations condemn the Lords of the Star-chambers unjust and wicked dealing with English free-men, in censuring them for their refusing to answer to questions concerning themselves, and yet notwithstanding, walked with his dealing with me in the very steps that formerly he had bliterly condemned in the Star-chamber Lords; yea and there for refusing to answer his questions, (for any thing he declared to me to the contrary) committed me to Prison for Treason in general; and you know very well, better than I do, that by your own Law, generals in Law signifie nothing.

Judge Jarmyn. Mr. Lilburn, you very much Abuse and Wrong your self, for you very well know Mr. Bradshaw is now denominated by another name, namely, Lord President to the Council of State of England, and it would well become you in your condition so to have styled him.

Lieut. Col. Lilburn. And although no Crime in Law (which ought to be particularly expressed) was laid unto my Charge, yet when I was first imprisoned, there were thousands of my friends (well-wishers to the Freedoms of England, and to the common Cause in which they

had

had been ingaged in for these eight years together) both old and young; both Masters of Families, Young men and Apprentices, and abundance of others of the feminine Sex too, with abundance of cordial honest Men in several Countries, joined in several rational and fair petitions, and delivered them to the House in the behalf of my self and my three fellow Prisoners; in which they most earnestly intreated them, that they would not prejudge us before we were heard, and knew our accusers and accusations; but rather that they would release us, and take off their prejudging Votes against us, which they had caused to be proclaimed in all the publicke places of the Nation against us, and let us have a fair and legal Trial according to the Laws of England, and according to the undeniable Priviledges of the due Process of the Law from first to last, and they would put in any security that they would require of them, that we should be forthcoming at all times, to answer whatsoever in Law could be laid to our Charge; unto all which Petitions, which were very many, they could get no manner of satisfying answer, but slighty, abuses, and scorns.

But besides this, Gentlemen, that you may see that I am rational, and that you may see I have an innocent and quiet Conscience within me, that does not accuse me nor terrifie me, therefore I must acquaint you that I again and again proffered my chiefeſt Adversaries, and ſent often to them, being earnestly deſirous to chufe two Members of the Houſe of Commons, and let them chufe two more whom they pleafe, and I would with all my heart freely refer all manner of diſference betwixt them and me, to the final determination and judgment of four of their fellow Members; but all this would do no good, and yet they would not in the leaſt let me understand what was the thing they deſired of me, but by their Power and Will, I had my Pockets and Chamber ſearched to find out advantages againſt me; and alſo lock'd up close Prisoner, with Centinels Night and Day ſet at my Door, and denied the access and ſight of my Wife and Children for ſome certain time, and for about Twenty weeks together in the heat of Summer, kept a close Prisoner, and denied the liberty of the Prison, and my Estate with a ſtrong hand taken away from me, without any preſtence (or due proceſs) of Law, to the value of almoſt Three thouſand pounds, that was legally and juſtly invested in me, and in my poſſeſſion; but being I will avoid (at this time eſpecially) provocations as muſh as I can, I will name no person by whose Power and Will it hath been done, althoſh he be noſtoriouſly known, but the Gentleman that took it away by his pleasure, without all Rules of Law and Juſtice, told my Father to this purpoſe, That I was a Traitor and under the Parliaments diſpleaſure, and therefore he would ſecure it from me, althoſh I were not in the leaſt Convicted of any Crime; neither in Law, then, or for many Moonths after, had I the leaſt preſtence of crime laid unto my charge: And althoſh my own Estate by force againſt Law was taken from me, yet was I alſo denied in my close imprisonment that Legal al- lowance

legions that should have kept me alive ; for in all this miserable condition I never yet received a Penny of my Legal allowance, but was positively denied that Testimony and Legal Right that the late King constantly allowed to all the Members of the Parliament that were committed in the third year of his Reign, and several other times ; unto whom for their diet he allowed Three, Four and Five pounds a Week, according to their quality, although they had great and large Estates peaceably in their possession : And one of them that is now beyond the Seas, a Collonel, I have forgot his name, (but it was Collonel Long) confessed in the Lieutenant of the Tower's own Chamber the last year, that the King was so bountiful to him and the rest of his fellow Prisoners, that he let them enjoy the allowance of about Four or Five pounds a Week for diet ; and that while he was Prisoner in the Tower, he spent the King about 1500*l.* for his own particular self in Provision : but notwithstanding I was denied all this, and to fill up the height of the insufferable provocations put upon me, abundance of my own, and ancient acquaintance were set upon me to calumniate, besmirch, and reproach me ; yea, and to endeavour to become instruments to take away my life, some of them confessing they were under-hand set on by some Parliament-men, all whose base and wicked Petitions, Papers and Books preferred and published against me, were hugged and embraced, although for my own part I do not know of any Man in this World that can justly tax me with any action, or maintaining any Principles or Tenents but what doth become a Man that doth believe all that is contained in the Law and the Gospel, and doth believe the Resurrection of the dead and life Eternal ; nay, that doth believe that I my self shall arise and go to the Lord of Glory. Yet notwithstanding all these unparalleled provocations put upon me, especially by divers of my old acquaintance, whom I had upon all occasions faithfully served, but never wronged, injured, nor provoked ; being instigated (as they themselves confess in some of their own Congregations) by Parliament-men so to do.

Truly Sirs, I appeal to your own Judgments, and to your Consciences, and to all the People that hear me this day, whether all these provocations laid upon a poor man, which is but Dust and Ashes, as well as other Men, be not too insupportable a burden, and too much for the causes of them to take advantage of the fruits produced by them, to destroy me, and take away my life.

And therefore, Sir, in the first place, I shall humbly crave that favour and right, seeing I am brought before you by a piece of Parchment that truly I could not read, neither could he do it that shewed it me, (I mean the Lieutenant of the Tower,) for admit that if I did well understand Latin, as indeed I do not, only some ordinary words, yet was it in such an unusual strange hand that I could not read it ; and therefore being I am brought before you implicitly, and not as I conceive an Englishman ought to be, who ought to see and read the Authority, by vertue of which he is convened before any power : It's true, I know some of you Gentlemen that I see sit before me, yet not many of you, and truly I have nothing but a piece

of volegible Parchment, which cannot satisfy my understanding of the Ga-
gaines of my Convention before you ; but being I am not able to dispute
that Power that compulsively brought me, but here I am ; and therefore
in order to the declaring of my self to be a true Englishman, I most
humbly crave (and that I think is consonant to Reason, and I hope to
Law too) that I may see and here read, the Commission, by vertue of
which you sit here this day, and convene my Person before you, that so I
may compare it to the Law ; and consider whether or no, that by my
Pleading before you by vertue of it, I do not betray my Liberties : And
therefore I humbly crave, that you would let me hear your Commission
read ; for this Court is no ordinary and common Assizes, Sessions, or Goal-
delivery, the only proper Courts for trying me for all criminal faults, yes
and those also ought to sit where the Crimes are committed ; and I was
Imprisoned for a pretended Crime, pretended to be committed in the
County of Surry ; where by the Common Law of England, and express
Statutes, I ought to be tryed there, and no where else.

And therefore being brought in an extraordinary manner to such an ex-
traordinary place as this, which is no ordinary Assizes nor Sessions, no, not
yet in mine own County ; therefore I again humbly desire that you will
be pleased to let me see and hear your extraordinary Commission, that so
I may consider whether the extent or latitude of the Commission be con-
sonant, or no, to the Petition of Right, and other the good old Laws of
England ; for those that now sit at Westminster, exercising the Supreme
Power, by two special Declarations, the one dated the 9th of February
last, and the other the 17th of March last, have positively declared,
and called God to witness, that they will maintain, preserve, and defend
that excellentest of Laws, the Petition of Right, as in the seventh Page
of the last Declaration they call it ; and that the People of England
shall enjoy all the benefit therein contained, whether to Life, Liberty, or
Estate, with all things incident thereunto ; and therefore I humbly beg
and crave that favor from you, that seeing to me you appear to be sent in
an extraordinary manner, not according to the ordinary Customs of the
Laws of England, that you will be pleased to let me hear your Com-
mission read, that so I may consider of the consonancy thereof to the Pe-
tition of Rights, and other the good old Laws of England ; and after the
reading of it, I hope I shall return you such an answer as doth become a
rational and ingenious man ; who though he hath right to all the Privi-
leges of the Laws of England, and hath read all the declared and plain
Laws of England, that are to me the fundamentals of all, yet the practick
part of the Law, which are in other Tongues. Besides the English, I can-
not read, know nor understand ; and in the Petition of Rights, and other
the good old Fundamental Laws of England, I can find no Foundation
or Bottom for such an extraordinary Court as this before my eyes seems
to be ; and therefore I again make it my most humblest to hear your
Commission read.

Judge

Judge Kettle. . Mr. Lilburn, you are fully heard.

Mr. Prideaux Attorney Gen. My Lord, the Prisoner at the Barr may have else have cause to complain that he hath wanted your patience in being fully heard. My Lord, that which at the begining of his Arraignment you expected from him, which was to hold up his hand, he denied, and upon his denial, desired liberty of speech to speak, and he hath enjoyed it. But my Lord, how pertinent his discourse is, to what was proposed to him, the Court and all that hear him will judge; My Lord, I am not here to justify the alings of those that hers he hath complained against, but they are a Court, they are a Council, and my thoughts are (and so ought his to be) honourable of them, and what they have done (my Lord) towards him in ordering this Court to try him, is but justice: My Lord, there is no Special Commission of Oyer and Terminer, but a General Commission, and upon that General Commission, here is a Special Presentment of Mr. Lilburn here at the Barr, the General Commission is according to the Law of the Land, and upon that Special Presentment it is expected he may be proceeded against according to Law. And for your Commission, my Lord, that hath been read and published to the Court, before Mr. Lilburn came to the Court, and the Court is satisfied with it, that it is in the ordinary way, and I hope the judgment you will give, will declare it to be according to the Law, in the ordinary Way: And as for the Commission it self in the form of it, it is not a tittle varied from the ordinary accustomed form. But, my Lord, the Petition of Right, Magna Charta, the Statutes, and all Declarations that have been spoken of, they are all confirmed in this, and all do confirm it, for in that ordinary trial that hath been practised in this Nation for five hundred years is Mr. Lilburn now to be tryed, and that by the old good Laws of Englad, Mr. Lilburn's Birth-right and every man's else; he has his Tryal, the beginning of which hath been Mr. Lilburn's Presentment, which is already found by the Grand Inquest, who are Men of Integrity, Men of Ability, Men of Knowledge. My Lord, he is now to come to his Tryal, not in an extraordinary way, but by a Jury of good and legal Men of the Neighbourhood, by Men that do know my Lord, and understand what is Fact, what is Law*, and to do Justice indifferently between both.

And, my Lord, I do know, and publish to all that now hear me, that the Commission for Trial of Mr. Lilburn this day, for those differences that are between the State and Mr. Lilburn is free in Law from all those exceptions that he is pleased to put upon it, and is unquestionably Legal, and used for these many hundred years together. And as for Mr. Lilburn's declaring the fact for which he was originally imprisoned for to be committed in Surry, and therefore there in Law he ought to be Tryed, and not here in London, being another County: As for Mr. Lilburn's Crimes committed in Surry, his own Conscience best

* Mark that well, for Judge Jermyn called it a damnable Doctrine, when Mr. Lilburn declared, the Jury were Judges of Law as well as of fact.

left known; what they are; but Mr. Lilburn or most can but yet guess at what we intend to Try him here for or lay unto his Charge.

But, my Lord, if Mr. Lilburn will please to put himself upon his Trial, according to Law, my Lord I hope the Court, and all that hears and sees their proceedings will receive full satisfaction in the legality and fairness of their proceedings against him, and himself the benefit of Justice and Law,

Lient. Col. Lilburn. Sir, by your favour, in two words, I shall not be tedious; I now perceive who is my accuser and prosecutor, the Gentleman that is a very unequal one, for he is one of the Creators (being a Member of the House) of you that sit here this day to be my Judges, and therefore an overawing and unfit accuser or prosecutor.

Lord Keeble. Mr. Lilburn, I pray you hear me a Word, for now you speak not rationally nor discreetly, you have had a fair respect and hearing, what you speak of Liberties and Laws, we come here to maintain them for all, and for you too; and we also come for to vindicate our actions; and as for that you speak of in reference to the Commission, I must let you know, the Commission is warrantable by the Laws of England for this five hundred years, nay and before five hundred years in substance: The second thing that you speak to, is, that you were apprehended in such an hostile manner, understanding by Law you should have been taken in an ordinary way by an ordinary Officer: But Mr. Lilburn, in all apprehensions of Traytors, Robes and Murderers, is not the Power of the County to be raised, and the Sheriff is to call and take what Power he pleaseth.

Lient. Col. Lilburn. By your favour Sir, not unless I resist, which I did not, and besides, there was no Sheriff nor no other civil Officer at my Apprehension.

Lord Keeble. Mr. Lilburn, spare your self, it is as they are informed of the danger of the Man, they may do it before ever they see him. The next thing you are upon, is the Wrong and injustice that you received by the proceedings in the Star-chamber against you, yes see the proceedings there have been questioned, and you justified; if there be any thing else that hath been by others in the North or elsewhere acted, there is no Man here that will justify them in their evil, but for a private Man, or you are to sell us of them here, and to come and sell us to our faces that we are Created and constituted by the Attorney General, we will not suffer it, nor further hear of it; and therefore Mr. Lilburn, although you have spoken fair words, (and happily more than your friends expected from you) I must tell you that words are but words, and it were well that you would do as well and as Rationally as becomes a Rational man, as you have declared you will.

Lient. Col. Lilburn. With your favour but one word more.

Judge

Judge Jermyn. Mr. Lilburn, pray spare a word, and let me have
 Convene this Court, sit here by lawful Authority, and that a Commission
 Parliament, that are the Supreme Authority, of England. So then our
 Power is not derived from those that have no Rightful Authority, or au-
 thority at all, but our Power, is from the Publick Authority of England,
 which is now by an Admirable act of Gods providence, levied, but not
 received, and settled by God upon them. By that Authority this Court
 doth now sit, and you are brought here before them that are men of
 Judges of the Law, and we are sworn to do you and every Mans Justice and
 Right according as his cause requires, according to Law, Judgment, Equity,
 and Reason. And it was said truly, that which my brother Heath (who now
 is dead) did say, Its the duty of the Judges to be of Council with
 the Prisoner, at the Bar before him and to do that which they are bound
 to do, and that you shall have; and accordingly you have, and much more
 favour than ever I heard of a Prisoner that was accused of Treason, any
 life ever had. And as for the Commission, I must tell you, it is usual to have
 Commissions of Oyer and Terminer, and that even in Time of War for
 high Offences, and such as tend to the destruction of the Nation, as
 Overburies did; and those that tend to Capital Treason, whether you are
 now accused by a Grand-jury of London, that are Brethren of London,
 Citizens, able Men, Men of Religion, Men of Estate, Men of Com-
 missioner, Men of quality, those are your accusers, who have sworn you
 in their Oaths guilty of Treason, and cry out to us the Judges for Justice
 against you, and it is they, not we that proceed against you; And as
 for our Commission, it is according to the good old Lawes of the Land,
 founded upon the Statute made in Edward the first time, called Westminster
 the second: That Statute Authorizeth Commissions, according to that
 Commission we sit by here this day; and Edward the 111 was a wise and a
 good Prince, and consented to the People, to let them have such Commissi-
 ons as unto the first by it, which the People had sought, namely for, in the
 Barons war in his Fathers time, and also in his, for his himself was taken
 prisoner at Lewes in the County of Sussex; and being a wise Prince, he
 knew that the love of the People was the more to be got then by, whole
 and safe Laws; that every Mans life, and every Mans Estate, and
 every Mans Liberty, might be preserved by, and not be subject to any Arbi-
 trary Will or Power, but that the other end, and main Law of the
 Kingdom, which our ancestors won by their Swords, might be their pro-
 tectors; a special, one of which was this Statute of Westminster the Sec-
 ond made in Edward the Firsts time; by virtue of which Statute is this
 Commission directed to the Justices of the one Bench and the other, and
 you may be all here this day; but only those that of necessity must attend us
 at Westminster, only to preserve the Term. Now you are sworn to answer
 that Charge, which hath been the greatest opposition to the settlement of
 Government that can be, I mean the settlement of the Supreme Authority
 of the Nation, in the Commons now assembled in Parliament, not newly
 created

trayed has revived into the right Place and Hand, for it is the Law of England revived; that the Supreme Authority is in the * Commons assented in the Parliament of England: For so it was in the Saxon time, and in the Romans time, and in all times † it hath been as it is now; which will sufficiently justify our present Proceedings against you; and therefore I say, for the Commission it self, it is in General for the Tryal of all Treasons whatsoever: But the grand Inquest have found out no other Traitor that they may accuse, but Master John Lilburn, who is now here at the Bar; But it is not a bare Accusation, but it is the Solemn Verdict of almost a double Jury that hath appeared upon the Roll, and upon their Oaths do accuse those Crimes of Treason that are laid against you, to be of so dangerous Consequence against the State and Common-Wealth, that they do call for Justice against you as a Traitor, already found guilty: And therefore I do require you as you are an Englishman, and a rational Man, that you do conform your self, and tell us plainly what you will do, as in reference to the putting your self upon your Tryal by the Law, and hear with Patience such Offences of Treason that are laid to your Charge.

Lient. Col. Lilburn. May it please you Sir, by your Favour, I shall not now trouble you with many words.

Lord Keeble. You go improperly to work.

Lient. Colonel Lilburn. That Gentleman I do not know his Name; (pointing to Judge Jermyn) you were pleased to say that I have had more of a Favour than ever you have heard of any before ever had in the like Case: But Sir, by your Favour, I shall tell you of some that in the like Case have had as much, if not more, and that was Throgmorton in Queen Mary's time, who was impeached of higher Treason than now I am, and that in the Days of the commonly accounted bloodiest and cruellest Prince that this many hundreds of Years hath Reigned in England; and yet Sir, I am sure in this very place, and that by special Commission of Oyer and Terminer; who was accused for being one of the Chiefest Confederates with Wyat in his Kentish Rebellion; which Wyat marched with an Army against the Queen to London, for which a real War or Rebellion, Throgmorton was in this Place arraigned as a Traitor, and enjoyed as much, if

* But by his Favour never before practised nor used without both King and Lords, a President of which he is desired to shew and produce out of any of his Law Books.

† But there was before the Conquest neither Inns of Court, Lawyers nor Term Judges in England, but only twelve good and legal Men, chosen in each Hundred, finally to decide all Controversies, which lasted till King William the Conqueror subdued that excellent Constitution, and instead thereof, introduced by His Will and Sword (contrary to His Solemn Oath, three several times taken) the intolerable Bondage of Westminster-Hall, or Term Judges, and their Outlandish or Normain Law Practise in the French Tongue; as all the English Chronicles universally and truly declar-

not more Favour then I have now enjoyed, although his then Judges and Prosecutor were bent to take away his life, right or wrong ; and therefore, Sir, by your Favour, it is no extraordinary Favour that you have afforded me, it is but only my right, by Law, Justice, and common Equity : But, Sir, I shall be short, and put my Business to a plain Issue, which is this.

I have here at the Bar given in many strong Arguments against the Validity and Legality of a Special Commission of Oyer and Terminer, and supposing that to be such an one by Virtue of which you sit, and intend to try me for my Life ; and therefore I have humbly desired (as in reason, and I think in Law I may justly do) to hear your Commission read ; But you have positively denied me that, and therefore I desire all my Friends, and all the People that hear me this Day, to bear Witness and take Notice, that you contrary to Reason and common Equity, denied me to let me hear read your Commission by Virtue of which you go about to take away my Life ; which I cannot chuse but desire them to take Notice, I declare to be very hard measure.

But, Sir, to save my self from your fore-lay'd Snare, and desired advantage against me, I will come a little Closer to the Business : You demand I should hold up my Hand at the Bar, and I know not what it Means, neither what in Law it signifies ; Its true, I have read the most part of the Laws that are in *English*, which I take to be the Foundation of all our *English* Legal Privileges, and in them I cannot find any thing that doth clearly declare unto me the full Signification or meaning of a Man holding up his Hand at the Bar ; Therefore if you please but to explain what the meaning and signification of holding up the Hand at the Bar is, I shall seriously consider of it, and I hope return you a Rational and discreet Answer, for truly in those Laws which are in the *English* Tongue that I have read, although I find mentioned maid of holding up the Hand, yet I cannot find much of the full Signification of it, only I find it to be of a large extent ; and as for those Laws, or rather the particular part of the Law, that are in *French* and *Latin*, I cannot read them, and therefore much less understand them ; in which regard, for me to hold up my Hand at the Bar, before I understand the true Signification of it in Law, (which tells me it is in it self a ticklish thing) were for me to throw away my own Life upon a punctilio or nicety, that I am ignorant of ; and therefore truly I think I should be a very fool in my own ignorance to run that danger, and therefore, Sir, I humbly desire the clear explanation of the meaning of it in Law, and after that I shall give you a fair and rational Answer.

Lord Hieble. *M. Lilburn, you shall see we will deal very Rationally with you, (and not inshare you in the least manner) if that be all. The stea holding up of your Hand, we will tell you what it Means, and signifies in that Law ; the calling to the Party to hold up his Hand at the Bar, is no more than for the special Notice that the Party is the Man inquired for or called in, and therefore if you be Mr. John Lilburn, and be the Man that we charge, do but say that you are the Man, and that you are there, and it will suffice.*

Liens, Col. Lilburn. I am John Lilburn, Son to Mr. Richard Lilburn of

Lord Keeble, Mr. Lilburn, what you have to say we will hear presently, only take Notice, that we will take your acknowledging of your Name to be sufficient, if you will say that you are the Man; you are called by your Name, you have come and answered to your Name, in order to your answering, the Charge to be read against you; do but this and it shall suffice, without holding up your Hand: therefore let us have no more discourse as to that.

Judge Jermyn. Mr. Lilburn, pray spare me a word, for you have been bearded with patience, you have desired to have the Right of the Law of England, and yet you do question a Fundamental thing that hath been always used in case of Criminal Offences. By the Law of England, that you desire to have the meaning of it, is but just, but you must know that the Law of England is the Law of God, and if there be any thing in the Law of England but what was by admirable Constitution and Reason, we would not meddle with it; but I pray know this, that the Law of England is no written Law, it is the Law that hath been maintained by our Ancestors, by the tried Rules of Reason, and the prime Laws of Nature; for it does not depend upon Statutes or Written and declared Words*, or Lines; and this is our Law that hath been maintained by our Ancestors, and is subordinate to the Law and Will of God; therefore I say again, the Law of England is pure, Primitive Reason, uncorrupted and unpolluted by human Humors; or human Corruptions, Wits, or Wills; that's the Law of England. There be two Reasons why holding up the hand hath been used always. First for Notice, that those that are called for Capital and Criminal Offences, that they hold up their hands, it, to declare that they are the Men. My Lord hath given you this one Reason already, which I say is, that he be notified by holding up the hand to all the beholders and those that be present and hear him, that he is the Man; but

* But saith Mr. Hyde in his fore-mentioned Argument, against the Northern special Commission of Oyer and Terminor, pag. 411. *Miserabilis servitus est, ubi jus est vagum aut incognitum.* That is to say, It is a miserable Servitude, where the Law is uncertain or unknow: And the very same saith that great Oracle of the Law, Sir Edward Coke, in the Proem to the third Part of his Institutes; and in the fourth Part Fol. 332. and in several places besides. But the People may easily see hereby, that these present Judges drives to have no other Law in being in England, but what is in their own and their Masters breasts, (that so by pretence of Law they may give away all the Liberties and Proprieties of the People of the Nation, as their Brother Judges did lately to the King, in the Case of Ship Money) and then wo and wo to the People to be brought back again to that Faith, that Ignorance is the Mother of Devotion or Obedience.

besides this, there is more in it, that's that; a pure innocent hand, does set forth a clear unspotted heart, that so the heart and hand put together might bespeak Innocency. And therefore hold up your hand, that thereby you may declare you have a pure innocent heart; if you refuse to do this, you do wilfully deprive your self of the Benefit of one of the Main proceedings and Customs of the Laws of England. Now for this do what you think fit.

Mr. Lilburn. Well then Sir, (applying himself to M. Keeble as the President of the Court) I take your Explanation of it, and lay hold of that.

Lord Keeble. You must answer Positively, Sir, for you have had advice enough, yes good Advice if you imbrace it, it is good Advice to you, but the Court doth not expect an Answer from you to what hath been already said to you, but they expect that without any more dispute you apply your self so Answer according to that which you are advised unto, do it if you will, and if you will but Answer to it so as hath been declared to you, it shall suffice; but so far you must go to this, as to declare whether you be the Man or no before you go away; and therefore dispute it no more, lest you deprive your self of the benefit of the Law,

Lieut. Col. Lilburn. Well then, Sir, according to your own explanation, I say my Name is John Lilburn Son to Mr. Richard Lilburn, of the County of Durham, a Free-man of the City of London, and sometimes Lieutenant Colonel in the Parliament's Army; and if you will not believe that I am the Man, my Guardian the Lieutenant of the Tower there (pointing to him) will aver that I am.

Lord Keeble. So then you are the Man.

Judge Jarmyn. Ask him again, hearken Mr. Lilburn, hearken what he says, and use that Moderation, and Temper, and Discretion that you have promised.

Lieut. Col. Lilburn. One word more, and I shall have done, and that is by the Law of England, (but being interrupted he cryed out) with your Favour, Sir, I will come to the main thing, I hope you do not go about to circumvent me, therefore hear me I beseech you.

Lord Keeble. Hear the Court, Mr. Lilburn, there shall be nothing of Circumvention or Interruption, but as you have professed to be a Rational and understanding Man in words, let your deeds so declare you.

Lieut. Col. Lilburn. Sir, I beseech you do not surprise me with punctilioes, or nicities, which are hard things for me to lose my Life upon, I tell you again, my Name is John Lilburn, Son to Mr. Richard Lilburn.

Lord Keeble. Talk not of punctilioes with us, nor talk not of Judges made by the Laws, you shall not want Law; but if you talk of punctilioes here in this Room, we will stop that language.

Lieut. Col. Lilburn. Truly, Sir, I am upon my Life, and shall my Ignorance of the Formalities of the Law in the practice part thereof destroy me, God forbid! therefore give me but leave to speak for my Life, or else knock me on the head, and murther me where I stand, which is

more Righteous and Just then to do it by pretence of Justice. Sir, I know that Mr. Bradshaw himself, President to the High Court of Justice, as it was called, gave Duke *Hamilton* (*absit le Enim*) leave to speak to the punctilioes of the Law; yea, and to my knowledg again and again made an Engagement unto him and the rest tryed with him, that the Court nor he would not by vertue of their Ignorance of the niceties or formalities of the Law, take advantage against them to destroy them; but did declare again and again that all advantages of formalities should be totally laid aside, and not in the least made use of against them to their prejudice, and I hope you will grant me, that have often been in Armes for you, but never against you, as much Favour and Privilege as was granted to Duke *Hamilton*, never of your Party, but a General of a numerous Army against you.

Lord Keeble. Take it as you will, we have had patience with you, and you must and shall have patience with us; we will pass over all that is by past, but take heed by your surly crossnes; you give not advantage in the Face of the Court, to pass Sentence against you, without any further Proceedings, or Proof of your Actions, but what our own eyes see. The Ceremony is for your advantage more then you are aware of: but if you confess your self to be Mr. John *Lilburn*, we have done as to that.

Judge Jermyn. Mr. *Lilburn*, at the beginning you talked of Moderation, and that you would carry your self with Rationality, which methinks in your Actions you fall short of, for you have said that Mr. Attorney General was a very unequal prosecutor of you, because you say he was the Creator ^{*} of our Commission. Pray hear me, I heard you; and do not you think to put Affronts upon us undeserv'd: And as for that Man that you call Mr. Bradshaw, I tell you again he is Lord President of the Council of State of the Common-Wealth of England, and why you should so much neglect him, doth not so much favor of Rationality and Moderation, as you pretend your self to be possessed with.

Lord Keeble. Come, will you read the Indictment?

Mr. *Broughton* reads, Hold up your Hand John *Lilburn*, and hearken to your Charge.

Thou stands Indicted of High Treason by the name of John *Lilburn*, late of London, Gentleman, for that thou as a false Traitor, not having the fear of God before thy eyes, but being stirred up and moved by the instigation of the Devil, &c. as it followed verbatim, in the second Days proceedings, to which the Reader is referred.

Mr.

* Mr. *Lilburn* here endeavored to speak, and shew the Judge his mistake, for he did not say that Mr. *Prideaux* was the Creator of the Commission, but that he was one of the Creators of all the Judges, and thereby was Judge of his Judges, and in that Regard he was no Competent Accuser or Prosecutor, but they would not suffer him to speak but cryed out, hear the Court, which thing also they frequently did afterwards.

Mr. Broughton. What selfe shew John Lilburn, art thou Guilty of this Treason whereof thou standest Indicted, or not Guilty.

Lieut. Col. Lilburn. Gentlemen, I require the favour that I may be heard, and I shall desire nothing but that which may stand with Reason and Justice.

Lord Keeble. Mr. Lilburn, We shall deal with you according to Reason and Justice, and after such a manner as you your selfe shall judge Rational and Right.

Lieut. Col. Lilburn. Gentlemen, I shall speak but a few words, I beseech you hear me, for it is upon my Life.

Lord Keeble. You say you will deal Rationally in these ways; that is to be expected from you the first in Reason, is to Answer, and Plead, and before you so do, you cannot be heard.

Lieut. Col. Lilburn. Give me leave to speak, and I shall not speak 6 Lines (which with much strugling being granted, Mr. Lilburn went on and said to this effect.)

Then Sir, thus, By the Laws of England I am not to Answer to Questions against or concerning my selfe.

Lord Keeble. You shall not be compeld.

Another Judge. Mr. Lilburn, is this to answer against your selfe, to say you are not Guilty, by the Laws of the Land you are to plead to your Charge, and it is no acusing of your selfe to say Guilty or not Guilty.

Lieut. Col. Lilburn. Sir, by your Favour.

Judge Keeble. To Answer that you are not Guilty, is no great Matter, nor definit in Law.

Lieut. Col. Lilburn. By the Law of England I am to be Tryed by a Rule, but I do not know by the Rules of the Law, what Benefit, in reference to my exception against the illegality of my Indictment, I may deprive my selfe of, in case I should Answer before I Except.

Lord Keeble. The Law is plain, that you are positively to Answer, Guilty or not guilty, which you please.

Lieut. Col. Lilburn. Sir, By the Petition of Right, I am not to Answer to any Questions concerning my selfe; therefore I humbly entreat you to afford me the Privileges of the Laws of England, and I will return a positive Answer to it, if you will but please to allow me Counsel, that I may consult with them, for I am ignorant of the formalities of Law in the practick part of it, although I here declare I own the good old Laws of England, and a Legal Jury of 12 Men, yea, and a Tryal by a Jury of legal Men: and I do humbly crave (Sir) a Copy of the Indictment, or so much of it as I may ground my Plea upon it, and reasonable time to consult with my Counsel, although it be but 3, or 5. Days.

Lord Keeble. You speak well, but you must do well, 'tis that we come for, the reasonableness of it is this, that you should shortly Answer (Sir) to that question, and in a Rational legal Way: when you have Answered it, you shall have liberty to make your Defence, to maintain that you say, but this that we speak now of, is a thing in your own Breast, is your

own Knowledge, whether you be Guilty of this that is laid to your Charge, or no : And if you be clear, you cannot wrong your self, nor your Conscience ; for in saying not Guilty, you know better what you say than any other doth.

Lieut. Col. Lilburn. Sir, I am Ignorant of the Formalities of the Law, having no Books in English wherein I can read them ; and as for other Tongues I understand none, and therefore for you to take away my life for my Ignorance, when the practick part of the Law, or the Formalities thereof is lockt up in strange Language, that it is impossible for me to read or understand, is extream hard.

It is true, in those English plain Laws which I have read, I find something spoken of it ; but must aver that I find there is a great deal of Nicity and Danger in locking a Man up to single Formalities, in answering Guilty, or not Guilty, and therefore I beseech to assign me Counsel, to inform my Ignorance, and give me but leave to consult with my Counsel, and I will return you an Answer according to your Desire, without any Demurr, as soon as it is possible for me to know what ground I go upon.

Mr. Broughton. John Lilburn, whatst thou, art thou Guilty of the Treason laid unto thy Charge, or art thou not Guilty.

Lieut. Col. Lilburn. But under Favour thus, for you to come to insnare and entrap me with unknown Nicities and Formalities, that are lockt up in the French and Latin Tongue, and cannot be read in English Books, they being not express in any Law of the Kingdom, published in our own English Tongue : it is not fair play according to the Law of England, plainly in English express in the Petition of Right, and other the good Old Statute-Laws of the Land : Therefore I again humbly desire to have Counsel assigned to me to consult with what these Formalities in Law signifie, so that I may not throw away my Life ignorantly upon forms.

Lord Keeble. Mr. Lilburn, we cannot grant you that Favour, it is not consistent to the Law, whatsoever you say to the contrary ?

Lieut. Col. Lilburn. I hope you will not go about to insnare me, and take away my Life for punctilioes.

Another Judge. Well then, you will not Plead ?

Lieut. Col. Lilburn. Yes, If I may be allowed that which I conceive to be my Birth Right and Privilege, to consult with Counsel, or that you please to make the same Engagement to me that Mr. Bradshaw, as the President of the High Court of Justice made to Duke Hamilton, which was, that the Court would take no advantage at all at his Ignorance in the Nicities and Formalities of the Law in his Pleading ; let me but enjoy this Engagement from you, and I will Plead.

Lord Keeble. You shall have that which is according to the Law, therefore Mr. Lilburn I advise you for to Plead, and you shall have fair play, and no advantage taken against you by your Ignorance of the Formalities of the Law ?

Lieut. Col. Lilburn. Well then, Sir, upon that Engagement, and because, I see you are so positive in the thing — This is my Answer, that

that I am not Guilty of any of the Treasons in manner and form, as they are there laid down in that Indictment, pointing to it, and therefore now Sir, having Pleaded, I crave the Liberty of England, that you will assign me Counsel.

Mr. Broughton. *By whom will thou be Tried?*

Lieut. Col. Lilburn. *By the known Laws of England, and a legal Jury of my equals, constituted according to Law.*

Mr. Broughton. *By whom will thou be Tried?*

Lieut. Col. Lilburn. *By the known Laws of England, I mean by the Liberties and Privileges of the Laws of England, and a Jury of my equals legally chosen; and now, Sir, I again desire Counsel to be assigned me to consult with, in Point of Law, that so I may not destroy myself through my Ignorance; this is but the same Privilege that was granted at Oxford unto me and the rest of my fellow Prisoners arraigned with me.*

One of the Clerks. *You must say, by God and your Country, that's the form of the Law?*

Lieut. Col. Lilburn. *Why must I say so?*

Another Judge. *This is the Form and Law of the Land, will you plead Mr. Lilburn, according to the Laws of England?*

Lieut. Col. Lilburn. *Truly I never read it, Sir, in the Laws of England, what it is to plead in this Nature.*

Lord Keeble. *You say you will be Tried by the Laws of the Land, then it is by the Country, and so you may Plead and do your self no harm; for by the Country is meant a Jury of your equals?*

Lieut. Col. Lilburn. *Sir, I am doubtful of my Ignorance in the Laws, yet I will return you an Answer, you making good your already engaged promises, that you will take no advantage against me, if through my Ignorance, and your Importunity, I Plead in any form, that in strictness of acceptation may deprive me of any real Benefit the Law will afford me.*

Judge Thorp. *Mr. Lilburn, you will be Tried by the Law, and by the Rules thereof, when you say so, you do really declare it to be by your Country, so that the true signification of being Tried by the Law, is the same thing in substance with being Tried by the Rules of the Law.*

Lieut. Col. Lilburn. *Then I hope my Answer is clear and fair, Sir.*

Judge Jermyn. *The Formality is shortly this, to be Tried by God and your Country, no more is meant by it but thus, by God, as God is every where present, yea, in all Courts of Justice, and his; and knows all things that are acted, said, and done; the other part of it by your Country, that is, by your Country or Neighbourhood; the Country is called Patria, because your Neighbour and your Equals which you are willing to put your self upon the Trial of; by force of that Word, the Country, a Jury of the Neighbourhood for Trial of you are summoned, now do what you will.*

Lieut. Col. Lilburn. *Sir, under your Favour thus, then in the Negative, I say God is not locally or corporally here present to Try me, or Pass and be upon me; but Affirmative I return this Answer, that I desire to be Tried Answer, in the presence of that God, that by his Omnipotent Power is present every*

every where, and beholds all the Actions that are done upon the Earth, and sees and knows whether any of your hearts be possessed with a premeditated Malice against me, and whether any of you come with so much forethought of Malice against me, as that in your hearts you intend to do the utmost you can, Right or Wrong to destroy me, and before this allseeing God I desire to be Tryed, and by my Country, that is to say, by a Jury of my Equals, according to the good Old Laws of the Land.

Justis Thorp, You have spoken very well.

Lord Keeble. You have done like an English-man so far, as you have done, and I do assure that in my Formalities (as you express, or call them) there shall be no advantage against you, if you mistake in them. Now what you have the next to think upon, is your Jury of your Countrymen, or Neighbours of your Equals, and I promise you we will take care of that, that they shall be good and lawfull Men of England ?

Lieut. Col. Lilburn. I thank you, Sir, but under your Favour thus your Indictment is extream long, and of abundance of particulars, it is impossible that my Memory, or of any one Mans in England, can contain it, or carry it in our heads, and therefore that I may make my Defence so as becomes a rational English-man : I earnestly entreat you that now you will be pleased to give me a Copy of my Indictment, or so much of it, as you expect a Plea from me upon, or an Answer unto, and Counsel assigned me, and time to debate with my Counsel, and Sub-pains for Witnessess.

Lord Keeble. For Counsel you need none, Mr. Lilburn, for that in Guilty which you have Pleaded, is that which lies in your own Breast, which rests in your own Counsel, and you know how it is, and can best Plead that your self, Counsel lies in Matter of Law, not of Fact.

Lieut. Col. Lilburn. Under Favour I desire Counsel, for Matter of Law, and not for Matter of Fact : My Indictment I believe in Law, is all Matter of Law, and I have something to say to it in Law.

Lord Keeble. If Matter of Law do arise upon the Proof of the Fact, you shall know it, and then shall have Counsel assigned to you.

Lieut. Col. Lilburn. I my self have before this been upon some Trials, and never before this was denied Counsel, nor nor so much as ever disputed whether I should have it or no. I also was at a great part of the Earl of Strafford's Tryal, who was supposed a most notorious Traitor, and yet if my Observation and Memory do not exceedingly fail me, he had Counsel assigned him at his first Desire, and they were continually with him, not only at the Bar when he was there, but also had continual access to him in Prison.

Besides, Sir, I being accused of Treason in such an extraordinary manner, and being but an ordinary Man my self; no eminent experienced Lawyer, dare well meddle with my business, nor nor so much as bestow a visit upon me; but he runs a hazard of being undone : and truly my State is in an extraordinary manner taken from me, so that I have no Many to send Messengers up and down privately to their Chambers, and there

herefore that I may be freely and allowedly able, without danger of ruin to any Man that shall advise me, I shall humbly crave as my Right by Law, and I am sure by common Equity and Justice, that I may have Council and Solicitors also assigned me.

Lord Keeble. Mr. Lilburn, speak rationally for your self, when there comes a Matter of Law, that you are able to say, this is for Matter of Law, arising from Matter of Fact, that hath been proved or endeavoured to be proved, when you come beyond that, you shall have it as willingly as you can desire, and withal, this that you say concerning your Memory, which you say is not able to carry away, or contain the particulars of this Indictment. The Indictment so much as will charge your Memory will be very short, for it is the publishing of those Books charged upon you in the Indictment, that will be the Matter which will stick, and that Matter will be very short, which we must prove against you, which is only Matter of Fact, and not of Law. And therefore for Fact of Treason you can thus be allowed no Counsel, but must plead it your self.

Lieut. Col. Lilburn. Sir, under Favour, you expect from me impossibilities, for seeing I have been Seven months in Prison for nothing, and could not in the least know perfectly what would be laid to my Charge, nor after what manner I should be proceeded against (considering all proceedings against me hithertoward) have been so absolutely Arbitrary, that it was impossible for me in Law exactly to come provided) and therefore seeing I am now here, and you pretend to proceed with me according to the due Course of Law, and seeing the form of the proceedings in this manner with me is not expressly and exactly declared in Print in English, which Tongue only I can read and understand, and seeing by the Law which is in English, which I have read, and clearly understand, that there are a great many snares, and a great many niceties in the practick, that are formal proceedings of the Law, and seeing I know not certainly, whether if I proceed to matter of proof, before in Law I make my Exceptions against your Indictment, as to matter, time, and place, I be not in Law deprived of that Benefit, which I principally aim at for the preservation of my Life, therefore I beseech and most earnestly entreat you, to assign me Counsel to consult with, before I be too farre insnared, and if you will not do it, and give me some reasonable time to prepare my Plea an Defence, then order me to be knock'd in the head immediately in the place where I stand without any further Tryal, for I must needs be destroyed if you deny me all the means of my Preservation.

Judge Jeimyn. Mr. Lilburn, It were reasonable to give you satisfaction, if you would receive it, you say you were present at my Lord of Straffords Tryal, and you say he had Counsel assigned him, not only to stand by him at the Bar, but to repair to Prison to instruct and advise, but that was not a Tryal in such a way as this is: It was a Tryal by way of Impeachment before the Peers assembled in Parliament, and his Article of Impeachment was made up into an Act of Parliament, but that is not a Tryal in the common Law, per parca, which is that which your self have desired a Tryal

is Tryal by lawfull Men according to the Liberties of the Laws of England. After your Answer to your first question, that is to say, whether you be Guilty or not Guilty of the things wherof you are accused, no Council in the World can follow till the Fact be proved, and matter of Law do arise thereupon. So that the first thing that must be done, the matter of Fact must be proved against you, and then if it shall appear thereupon to the Court, that matter of Law do arise, and you do expect Council, we must and will perform it, the Court are of your Council so far as to Fact. And then in that case, that Law arise thereupon, you may and ought to have other Council assigned, and do not you doubt but the Court will be as careful of you, as you can be of your self, and allow you more favour, it may be, then your friends do expect.

Lieut. Col. Lilb. Under your favour, and by your good liking, I was once Arraigned at Oxford for my life, upon the matter of Treason, for leveying war in Oxfordshire against the King, as their Indictment then said, and my Arraignment was by virtue of a Commission of Oyer and Terminer, that was (and in Law I am sure of it) as legal and as just as yours is, and my Lord Chief-Justice Heath, the chief Commissioner or President who was in the eye of the Law, as legal a Judge as any of you, and yet he —

Lord Keeble. Mr. Liburn, we do remember it.

Lieut. Col. Lilb. I beseech you give me leave to speak for my self, and to go on, for my Life lies upon it.

Lord Keeble. Hear me one word, and you shall have two.

This that you did speak but even now, do not you think that we have such bad memories, as that we have already forgot it, your life is by Law as dear as our lives, and our Souls are at stake if we do you any wrong.

Lieut. Col. Lilb. I wish you may be sensible of that Sir.

Judge Jarmyn. Mr. Liburn you need not to say so, our Souls are upon it, and we are to stand or fall by Justice and righteousness as well as your self is.

Lieut. Col. Lilb. I say my Lord Heath, and the Court at Oxford proffered me Council before any one witness was produc'd to my fact, or any matter of Fact came to the proof, yea, and gave me Liberty to mak my exceptions to the insufficiency of the Indictment, which was very short in comparison of yours; I crave the same priviledge from you (the Nations pretended friends) that I found at Oxford, amongst its declared pretended Enemies, against whom in several Battles I had fought. And I hope you that pretend to be the preservators of the Liberties of England will not be more cruel, and Unrighteous then the Declared destroyers of them, if you will not allow me Council as I had there, I have no more to say to you, you may Murder me if you please.

Judge

Judge Jermyn: You were pleased to mention some presidents of those that have been accused of High Treason, that have had Council assigned to them, and for one you mention, that of my Lord of Strafford, whose Tryal I told you was Parliamentary before the House of Peers, upon the Impeachment of the Commons of England in Parliament assembled, and so it went on in a Parliamentary way, their proceeding is in an ordinary course of the ordinary quondam Court of Justice according to the common Law. Now for my Lord of Strafford, give me leave to observe this; he had no Council assigned him until such time as questions of the Law did arise, which required Council, and then he had Council assigned him, but not before; for that my Lord doth not say, that you shall have no Council, but that you shall have that which the Law allows: and as for that which you speak of Council at Oxford, it could not be; but when upon the proof of Matter of Fact, it appears to the Court, that there is any Question or matter of Law arising upon the Fact: And when it doth so appear unto us, then you shall have Council for that; but (I beseech you) bear me on, You are now come before us according to the Common Law, to be tried by your Country, there is now nothing in question, but whether that matter, that thing, those words contained in the Indictment read to you, be true, yea, or no; that is, whether they be done, or no, for we will not give Council to plead to the matter of Fact contained in your own Books, which you remember very well.

Lient. Col. Lilb. Those Books supposed mine: Pray let me have Fair play, and not be Wound and Scru'd up into Hazards and Snares.

Lord Keeble. If they be not yours upon good grounds proved before you, you are in no danger: and if upon the proofs of the Words and Deeds done, there do appear matter of Law, you must and shall have Council; Bay till that be done, in the mean time the Court will take care that a Jury shall be returned of honest and sufficient legal men to judge of the proofs.

Lient. Col. Lilb. There was arraigned with me at Oxford Collonel Vivars of Banbury now alive, and Captain Gatesby who is dead: I will bring Collonel Vivars to depose here upon his Oath, that my Lord Heath and the rest of the Commissioners of Oyer and Terminer proffered me Council, and allowed me and him Council before ever so much as any Witnesses were produced, to prove the least matter of Fact: and if you will not be so just towards me as the Cavaliers were, and allow me Council as they did. I have no more to say, but resolve upon this score, to stand, and here to dye upon the Principles of an Englishman: If you will not be so just as the Cavaliers were, with whom you and the Parliament set us together by the Ears to Fight with, pretendedly for their injustice let God and all Righteous Men judge betwixt you and me.

Judge Nichols. If you will not be led by the proceedings of Law, it will be worse for you, and you are to know this is not Oxford.

Lieut. Col. Libb. Sir, by what better rules of the Law can I be led by, then those that I have before my Eyes; I am sure at Oxford, as my right by Law, I was, before any fact was proved, and proffered Council by my Judges, which were my Lord Heath, and Mr. Gardiner. Now Sir Thomas Gardiner, who is now in London, if you please I will produce him to this Bar to justify it upon his Oath, that the Lord Chief Justice *Heath* in his presence proffered me Council upon my Arraignment for Treason there, as my right by the privileges of the Laws of England, before the Fact came to be proved; yes, and also gave me Liberty to assign the Errors of my Indictment. He is now in London, and I will produce him here at this Bar (if you please) to justify what I say if you will give me time, and enable me with Ability to Summon him in.

Judge Nichols. Mr. Lilburn, whether Mr. Gardiner will justify or no, it is nothing to us, for we are not to walk by Oxford presidents, but by the rules of the Law, and the Law will afford you no Council, but in points of Law arising upon proof of the Fact [†].

Lieut. Col. Libb. Under favour thus: I conceive the presidents at Oxford, so far as they are righteous, are fit for your Imitation, and whether it be a righteous thing for you, when I am tryed for Treason before you, to be more cruel towards me, who have fought for you, then the Cavaliers at Oxford, in the like case were against whom I fought: and I must tell you, I further conceive it the most unequal and unjust thing in the World, for me to have to do, upon the Tryal of my life, with all the Judges of the Land (who are all engaged Men) that have bin above 6 Months time to beat their brains together, with the assistance of divers of my Adversaries, who are Parliament Men, that were the Creators of their Power, and for one of them to be my prosecutor: And in this so extraordinary case, for me to be denied to consult with Council, I tell you Sir it is most unjust, and the most unrighteous thing in my apprehension that ever I heard of, or see in all my life. O Lord! were there ever such a pack of unjust and unrighteous Judges in the World! Sir, in plain English let me tell you, if I had thought you would have bound me up to a single Plea, and not have given me in my Plea the latitude of Law, Equity and Reason, but hold me thus close to your single Formalities contrary to your promises, I would rather have dyed in this very Court before I would have pleaded one word unto you, for now you go about by my own Ignorance and Folly to make my self guilty.

† What a lying Judge is this Mr. Nichols, when as he himself with Mr. John Minard the Lawyer, was assigned by the President, Lord Chief Baron Wild, to be of the Council with Major Ralph upon his defence, and that before ever the grand Jury found his Indictment of Treason, as is fully declared in the next days following Plea of Mr. Lilburn.

led by of taking away my own life; and therefore, unless you will permit me Council, upon this lock, I am resolv'd to dye.

Lord Keeble. This is not the Rational way you said you would go in.

Lieut. Col. Lilb. Sir, my life is before you, you may Murther me, and take away my Blood if you please.

Lord Keeble. I will not be out-voiced by you, our lives and our souls are upon it, therefore you shall have Equity and Justice, yea, such as you desire your self; but you are now going to fly into Extravagancy: and I say, will be the tokens which will manifest the rancour of the distemperedness and inconstancy of Spirit which is within you: And besides, if we should enter into it, we might aggravate your crimes by your own words at the Bar. Take heed of it, that you give not advantage against your self to your own ruin.

Lieut. Col. Lilb. Sir, I am in no heats, I am but with earnestness pleading for my life, when you deny me all the just means of my preservation, which is my right and due by your own Law.

Judge Thorp. Mr. Lilburn, I desire to correct a mistake of yours in the Law: You were pleased to condemn it as unjust; for the Attorney General speaking with me, when your Indictment was a reading, you were to know, he is the prosecutor for the State here against you, and he must confer with us upon several Occasions, and we with him, and this is Law.

Lieut. Col. Lilb. Not upon the Bench (Sir) by your favour, unless he had it be openly, audibly, and avowedly, and not in any clandestine and Whispering way: And by your favour, for all you are a Judge, this is the Law, or else Sir Edward Cook in his 1st part Inst. Cap. High Treason: And for Petty Treason, hath published Falshoods, and the Parliament have Counter-Licensed them; for their stamp in a special manner, is to that Book.

Judge Thorp. Sir Edward Cook Law it, and he says the Attorney General will never any other prosecutor may speak with us in open Court, to inform us of their Business before us in open Court.

Lieut. Col. Lilb. Not in Hugger-mugger, Privately or Whisperingly.

Judge Thorp. I tell you Sir, the Attorney General may talk with any in the Court by Law, as he did with me.

Lieut. Col. Lilb. I tell you Sir it is unjust, and not warrantable by Law, from him to talk with the Court, or any of the Judges thereof in my absence, or in Hugger-mugger, or by Private Whisperings.

Lord

Lord
his de-
ment of what Mr. Lilburn said to be good law, as nothing in the World can be
Mr. Lilburn, see also to the same Purpose the 2^d part Inst. fol. 49. 30.

Lord Keeble. No *Sir* it is no Hagger-mugger for him to do as he did. Spare your words, and burft not me into passion, for whereby you will declare your self to be within the compass of your Indictment without any further Proof; look to it, that you behave your self according to the bounds of Reason and Law, and benn me, for we must cause the Jury to be returned.

Lies. Col. Lib. Sir under favour I crave but one word more, hear me out; I know very well, and I read in your own Law Books such a Prerogative, as that in cases of Treason no Council shall plead again the King, hath been sometime challenged to be the Kings Right by Law; but let me tell you, it was an usurp Prerogative of the late King, with all other arbitrary Prerogatives and unjust Usurpations upon the Peoples Rights and Freedoms, which has been pretended to be taken away with him: And Sir, can it be just to allow me Council to help me to plead for my estate, the Lesser, and to deny me the help of Council to enable me to plead for my life, the Greater. Nay, Sir, can it be just in you Judges, to take up 7 years time in ending some Suits of Law for a little Money or Land, and deny me a few Days to consider what to plead for my life? Sir, all these pretences of yours, were but all the Prerogatives of the Kings Will, to destroy the poor ignorant and harmless People by which undoubtly died with him, or else only the Name or Title is gone with him, but not the power or hurtful Tyranny or prerogative in the least. Therefore, seeing all such pretended and hurtful prerogatives are pretended to be taken away with the King, by those that took away his life, I earnestly desire I may be assigned Council to consult with, knowing now especially no pretence why I should be denied that Benefit and Priviledge of the Law, of Just and equitable Law of England, having put my self upon a Trial according to the priviledges thereof: And it was declared to me at Oxford, upon the Trial of my life there, after I was taken prisoner, fighting against the King and his party, even almost to hand gripe, and to the Swords point, and to the Butt end of our Muskets, being in person one of that little number that for many hours together at Bradford fought with the King's whole Army, where in the manner, without any Articles or composition I was taken a prisoner, and immediately thereupon arraigned at Oxford, where notwithstanding all this, it was declared to me by Judge Heath to be my right by the law of England to have Council assigned me to help me in point of Law, and I had it granted: I confess he is my best Authority that point of Law, or else I had never pleaded to him, and he was upon his Oath to do justice and right, and he was an able and understanding Lawyer, and yet did allow me (an hostile Enemy) Council to help me as my right by Law, before ever any Proof to matter of Fact was produced, and I beg but the same Legal Priviledge from you, from whom I have more cause to expect it.

Lord Keeble. Were you there Indicted for Treason?

Lies.

Lieut. Col. Lilburn. Yes, that I was, and for the Highest of Treasons by the Letter of the Law, for actual levying War against the King.

Judge Thorp. And yet for all that you knew it was no Treason, and so did he too, for you knew that you had committed no Treason at all in obeying the Parliament's Command; for what you have done, was done by the Parliament's special Authority and Command, and you had your Commission to justify you in your hostile Actions, and he knew it well enough, that Act was no Treason, though he did offer you Counsel, or else he durst not allow you Counsel.

Lieut. Col. Lilburn. I had nothing to justify me in that Act but the equitable Sense of the Law, the Letter of it being Point blank against me, and on the Cavaliers side, by which if they had prevailed, they might have hang'd both you and me for levying War against the King, notwithstanding our Parliament Commissions: and this I know, Sir, you know to be Law in the Letter or puruolices of it.

Judge Thorp. It was no Treason in you, and he that offered you Counsel knew it was no Treason, and your arraignment of you was as illegal as his offering you Counsel.

Lieut. Col. Lilburn. Sir, by your Favour, he was a Judge of the Law by legal Authority, being made by the King, in whom by Law that Power was invested, and he looked upon himself as a legal Judge, and so did I too, and as a legal Judge he arraigned me for doing that Act, that by the express Letter of the Law was Treason, and as a legal and honest Judge according to his Duty in Law he allowed me Counsel.

Judge Jermyn. For that Matter that you talk of, they knew it was no Treason, and therefore gave you more Privileges than was their right by Law, very well knowing, that whosoever was done to any of you that did fight for the Law, Religion, and Liberties of their Country, there ought to be like done to others that were Prisoners in the Parliament's Power, and this was the truth of it, and you know it very well, and therefore it is nothing to us, nor in Law his willingness.

Lieut. Col. Lilburn. Upon my Letters after the first day of my Tryal, the Declaration of Law Factions was made, as clearly appears by the words and date of it now in Print, which the Reader may peruse in the Part of the Parliaments Declarations, pag. 802, 803.

Judge Thorp. I wonder they did not proceed in the prosecution of the Indictment, and find you guilty of Treason, and so to Execution!

Lieut. Col. Lilb. Under your favour thus, I appeared at the Bar, I pleaded to my Indictment not guilty, I made exceptions against my Indictment, and my self and the other two Gentlemen arraigned with me had Council affiged us as our right by Law: And the Judges most fairly and rationally further told us, Because we will not surprise you, we will give you a Week's time to consider (with what Council you please in Oxford to chuse to come unto you) what to plead for your lives, and what-

whatsoever other privileges you can claim by the Liberties of the Law of England, you shall enjoy them to the utmost? Upon which promise I spoke in open Court to the Judge, shewing him the Irons upon my hands, in which I was arraigned, and told him: My Lord, by the Laws of England, no prisoner for any Crime soever, that behaves himself civilly and peaceably in his Imprisonment, ought to be put in Irons, or to any other pain or torment before he be legally Convicted: and therefore I desire as my right by Law, that my Irons may be taken off. And I said further, My Lord, I am shut up a close Prisoner in my chamber, denied the use of Pen, Ink, and Paper, which is contrary unto Law, especially in the time of my Tryal. Why, says he, you shall be released from your Irons, from your close Imprisonment, and have the use of Pen, Ink, and Paper, and Captain Lathom, I tell you, you shall enjoy whatsoever other Priviledge you can Challenge as your right by Law; for the Law of England is a Law of Mercy, and I hope we shall appear just Judges of it; and therefore you shall freely have either Lawyer of whom you will in Oxford, to come unto you to help and advise you. And says he, because you shall see that Law and Justice is of the King's side against the Parliament, and because they shall have no cause to caluminate us at Westminster, and to say we are unrighteous and unmerciful Judges, that surprize you, and thereby go about to Marache you; the Court is freely willing to give you a Week's time to consider with your Council in the mean time what this Day seven-night to plead for your life, in which time being freed of my Irons, and of my close Imprisonment, and enjoying Pen, Ink, and Paper at my Pleasure, by special order from the other two Gentlemen I writ a Letter to my Wife, and in it enclos'd another to your Speaker and another to young Sir Henry Vane, then my familiar acquaintance, all which I sent in post haste away to my wife by the Hands of Captain Prinſtoſ's Wife, which Captain Prinſtoſ was Prisoner there; and his Wife who brought up the Letter to my Wife, is now in London, which Letter my Wife delivered to the Speaker, &c. and by her importunate solicitation, procureſ the Declaration of Earl Talbot, the substance of which, in a Letter from Mr. Speaker, my Wife brought down to Oxford and delivered to the Lord Heseltine's own hands, upon the Sunday after the first day of our Arraignment, and the 3d day before we were to appear again; my Wife arrived at Oxford with the Speaker's Letter, which she delivered to Judge Hinch himself, which Letter taking notice of our Tryal, threatened them with Leu Talbot, to do the like to their Prisoners that they did to us, or any of us: and they having many of their great eminent Men Prisoners in the Tower, and in Warwick Castle and other Places, did induce them to stop all further Prosecution of Kinver, Capt. Gascoigne, and my self. And if it had not been for this threatening Letter, in all likelihood we had all three been condemned by a Commission of Oyer and Terminer, and executed, for my Wife did hear Judge Hinch say to one of his Associates at his reading of the Letter, that he for all the threatening part of it, as to his particular self, I value it not; but fa-

he we must be tender of the Lives of the Lords and Gentlemen that served the King, and are in the Custody of those at Westminster, and that clause of Law I alway put a stop to our Proceedings and further Tryals at Law.

Lord Keeble. It was well for you, by your story that you do tell, that you had so fair play; you shall have much w^{ch} w^{ch} who are upon our Lives and Deaths, as much as the Law will afford you, and so much as our Judgment and Consciences can lead us to, without doing Injustice in granting more than the Law of England will afford: what was done there, is nothing to us here, for we are not to make by their Presidents, but by our own Judgments, according to the Rules of the Law and here 'tis thus far just, that upon the proof of Matter of Fact, if Law do arise, you are to have Counsel, if not, you are to have none. By your allegation, you say, you had Counsel assigned you before any Matter of Fact came to be proved, when as a Judge of the Law he could not, but do it; but if he did it is nothing to us, we cannot do it; yet we have in this place proceeded legally hitherto with you, and when that Matter of Law doth arise from the Fact, as you had Counsel there assigned you, so shall you have here, and you shall have fair dealing, and fair play according to Law, which is absolutely as I tell you.

Judge Col. Lilburn. Sir, by your Favour I crave but one word more, and that is this; here is a Gentleman that is a by-stander, a Friend of mine, and my Sollicitor, who by Law as well as any other by-stander mayth speak for the Prisoner at the Bar, in case he perceive things urged against him contrary to Law, and therefore I desire he may speak two or three words.

(Mr. Sprat beginning to speak.)

Lord Keeble. Spare your self, when your time comes you shall speak.

Mr. Sprat. He asked leave for me first: And Sir it is easie to prove the whole Indictment to be Matter of Law.

Judge Jermyo. What impudent fellow is that, that dare be so bold as to speak in the Court, without being called. M^r Lilburn, by your own words you say, you were sold as Oxford, that by Law you were to have Counsel; that is, as true, that the Court is of Counsel for the Prisoner are assigned at the Bar, and so we taught, and shall permit you other Counsel, if Matter of Law upon the proof of the Fact do arise; but for any other Counsel to be assigned you before that appear, is not by Law warranted, we shall tread the Rules of Justice: and we shall do wrong to the whole Common-wealth, if we should allow you Counsel before Matter of Law doth arise from the proof of Fact, and to allow Counsel in any other Case, the Court commits Injustice.

Lord Keeble. And this M^r Lilburn, I will promise you, that when there comes Matter in Law, let be a Lawyer or your self, he shall speak in your Behalf, but before he cannot.

* Cook in his Inst. 3. Part. c. Petty Treason, fol. 29. is express in this particular, so is he in c. 63. being his cap. of Counsel, learned in Pleas of the Crown, fol. 137.

Lient. Col. Lilburn. Sir, the whole Indictment, under Favour, is Matter of Law, and the great Question that will arise (admit the Fact should be true, and admit it should be granted) is, whether the words be Treason in Law, yea, or no, and also it is Matter of Law in the Indictment, whether the Matter in the Indictment be rightly alledged, as to Matter, time and place. And it is Matter of Law in the Indictment where these divers several pretended Treasons committed in divers and several Countries, put into one and the same Indictment, be legal yes, or no.

Lord Keeble. Upon proof of the Matter of Fact, you shall hear and know whether Matter of Law will arise, and till the words be proved, we cannot say whether that be the Law that you suppose.

Lient. Col. Lilburn. Truly Sir, you promised me a fair Tryal, and that you would not take advantage of my Ignorance in the Law's formalities ; but the Lord deliver me, and all true hearted Englishmen from such unjust and unrighteous Proceedings as I find at your hands, you go about I know clearly see, by my Ignorance in holding me, to a single and naked Plea, which is purely as bad, if not worse than all the Prerogatives, and for the worst and greatest of his Prerogatives in a more rigorous manner than they were used in his life-time, to be thus prest upon me at this day, after he hath lost his Life for pretended Tyranny and Injustice, Liberty and Freedom in publick Declarations declared to the Kingdom, I say if there be Justice and Equity in this I have lost my Understanding, and the good Lord God of Heaven deliver me from all such Judicialties.

Lord Keeble. Mr. Lilburn, you have been arraigned before us for High Treason, and we bid you forbear those terms of yours, long ago speak that you do rationally, and you shall have fair and Christian Answers and Replies, as ever any Man had at a Bar, and go on, you shall have it still, if you will be fair and rational, and not break out into extravagancies and bitterness of spirit.

Lient. Col. Lilburn. For my part, Sir, I must look upon my self as a lost and dead Man, if I have not Counsel to help my Ignorance to pitch upon those things that tend to my Preservation : and therefore if you will not assign me Counsel to advise and consult with, I am resolved to go no further, though I die for it, and my innocent Blood be upon your Heads.

Justice Jermyn. You have alledged parts of the Law of England for your own advantage ; but every one that says so, does not prove it to be so : you have said you will be Tryed by the Lawes of England, and yet against the Lawes of England you have utterly refused, in that you would not hold up your Hand, which I do not know any English that ever refused so to do, but your self : you have been told by the Court what the Law of England is, and yet you will not be satisfied. We are upon our Oaths, and therefore will discharge our Consciences, and that in, or more eminent manner than my brother Heath did, although we do not deny you liberty to speak for your self. But now you who would have Counsel assyzed before any Matter of Law doth appear upon the proof of the Fact, which we cannot do : for it were to do Injustice, and to do against the Law, which the Court cannot justifie.

Lient.

Lient. Col. Lilburn. Sir, under Favour, whether or no I have transgressed the Law, I will not judge; but I am sure the Law in the Equity and Intention of it, would have all Tryals to be Equal, and not Prejudicial. My Prosecutors have had time enough to consult with Counsel of all sorts and kinds to destroy me, yea and with your selves, and I have not had any time at all, nor knowing in the least what you would charge upon me, and therefore could provide no Defence for that which I know not what it would be: And if by the Law of England I cannot have Counsel, then upon your own grant, which is, That the Laws of God are the Laws of England, I desire to have the Privilege of the Law of God; which you your self said is the Law of England; and I am sure the Law of God is, that you should do as you would be done to: now it cannot be according to the Law of God, for my Adversaries to have the Helps of all manner of Counsels, by Snare, Tricks and Provocations to take away my Life, and for me to be denied the benefit to consult with any to preserve my innocent Life against Pudent Malice.

Lord Keeble. You say well, the Law of God is the Law of England, and you have heard no Law else but what is consonant to the Law of Reason, which is the best Law of God, and here is none else urged against you.

Another Judge. The Law of God, and the Law of Reason, and the Law of the Land, are all joyned in the Laws that you shall be Tryed by.

Justice Jermyn. The Question is but this, Whether the Law of God and the Law of Reason, and the Law of Man may be consonant to each other, and whether the Court or John Lilburn shall be Judges therof, that is the Question?

Lord Keeble. And that which you said M. Attorney hath had so much time against you, and opportunity to consult with all manner of Counsel to destroy you, your secret Actions, though they are now come to publick View, are so beinow, as that they do require time to put them into the most sure Way of Tryal, we have proved the clandestineness of them; you did this in secret, now it is come to the face of the World. Now this being Matter of Fact, no Matter of Law can appear till proof passe upon it, you have had times to complain your treasonable venomous Books, which shall be proved upon you, and till this be done there is no Matter of Law to be look'd at. This is the Law of God, when a Man hath done such treasonable things, he shall answer directly and positively, whether he be guilty of them or no; and if he answer, Not guilty, and they be not fully proved against him, there needs no more to be said.

Justice Thorp. Mr. Lilburn, there fell some words from you even now, wherein you think you have this hardship put upon you, when you say the Judges and your Persecutors have had six Months time to meet together and consult together how to destroy you: First, I would not have you to believe, nor the rest that hear it, That that is true that you say: for I speak it for my own particular, that I never saw your Indictment till this time that I came here, and yet you say we have had six Months together to frame it. These are your words, this was not rightly done of you: for it is not true, I speak in my own particular. D 3 Lient.

Lient. Col. Lilburn. I am sure the substance of it you might see many Months ago, and though all you Judges have not at one time mett about it, yet the greatest part of you have that commonly carry the Commission of the whole, and at Serjeants Inn with Mr. Attorney General, the most of the Judges of England have had several meetings, 6. 5. and 4. Moneths ago, for I have had Friends there that have seen it, and who have enquired into the Cause of such solemn meetings, and your own Servants have told them it hath been about me and my Tryal.

Justice Thorp. I speak as for my own particular that I was never there, and that I never see your Indictment till this time.

Justice Jermyn. Why Mr. Lilburn, might we not have such meeting as those, your businesses being a Matter of this importance as this is, through the basouness of your Offence, and that it might be for grounde as the Warrant of the Law is, the Judges did meet, and they ought to meet * to consider of it, that nothing shold be done against you, or any Man else, contrary to the Law; but yet for my part, my dwelling is out of London, I heard not of it so soon as you speak of, but after I came to Town, I confess I heard of it, and have been present about some Debates about it.

Lient. Col. Lilburn. Only this I say, if by your Prerogative you will destroy me as Nebuchadnezzar did endeavour to destroy Daniel by his Prerogative, I am as willing to dye, as he was to be thrown into the Lions Den, and if you will not allow me Counsel to consult with, what Plea to make for my Life, I have no more to say, Sir, it is but a vain thing to spend any more words.

Lord Keeble. These are but words, and flourishes, Sir, that you are so willing and ready to die as you declare you are; but if you be, it is the better for you: And also it is well you have not to do with Judges, that would be asfear upon you, for you to term us to be Men that come hither to destroy you as Nebuchadnezzar went about to do Daniel, you may judge of what is within you, but of us, what is within us, you cannot judge, you shall have Justice here in the Face of the Country, and of all that here is, these shall be Judges of our Proceedings towards you: take heed, Mr. Lilburn, this language is but the sparks of that venomous heat that is within you, and they may burst out to prove you Guilty before us, and

* *Bar Cook* in his Chapter of Petty Treason, in 3. Part. Instit. fol. 29. expressly saith, and to the end, that the Tryal may be the more indirecent, seeing the safety of the Prisoner, consisteth in the indifferency of the Court, the Judges ought not to deliver their Opinions before hand of any Criminal Case that may come before them judicially, and he then cites *Humphry Stafford's Case*, that arch. Traylor, in which *Hussey* Ch. Justice, beougth H. 7. not to demand of them their Opinions before hand, and in 4. Part. Institutes, Chap. High Court Parliament, fol. 3. he fully shewes the evil of asking Judges Opinions before hand.

in your presence, of that you are charged with, without any further Proof or Proceedings; for you may do it, you may do it where you please, and therefore be assured, and take heed what you do.

Lieut. Col. Lilburn. Sir, I have call'd up my Account, And I know what it can cost me, I bless God I have learned to die, having always carried my Life in my Hand, ready to lay it down for above this twelve Years together, having liv'd in the favour and bosom of God, and I bless his Name, I can as freely die as live.

Lord Keeble. You shall not now lay it down, if you do not destroy nor cast away the Common-wealth; but if you're about to destroy the Common-wealth, the Common-wealth will spue you up and destroy you.

Lieut. Col. Lilburn. Lecture nothing but Counsel, and a little time to consult with them, and to produce my Witnesses, and a Copy of my Indictment; if not, I am willing to die as the Obj^ct of your Indignation and Malice, do your will and pleasure.

Lord Keeble. We are willing to die too.

Mr. Attorney. What is agreeable to the Law of England, the constant settled practice of trying Prisoners, will not be denied Mr. Lilburn, but as for that Privilege that was granted unto him at Oxford, is no tie in Law to us, neither was it ever heard of in England, that any that did understand the Law, did ever at Mr. Lilburn now desires, allow Counsel to a Prisoner for such an ABS^cON^cTR^cUTION, or had the Copy of the Indictment, it shall not be denied Mr. Lilburn, which is his right by Law in its due place: But to make new Presidents and new Laws, which my Lord when done by such a Bench as this is, most of the Judges in England being present, runs to all Criminal Cases whatsoever, whether in Treason, Murder, or other Felonies; it's true, Mr. Lilburn is now only concerned in it, but if granted to him, it would be a President to all future times, by means of which, there would never be an end of Trials in Criminal Cases. And it is a wonderful strange thing to me, that when the Prisoner hath pleaded the usual way, you proceed not immediately to Trial. It's true Mr. Lilburn hath pleaded his own Ignorance, and therefore deserves longer time; but my Lord to make a President of this nature that never was known by the Law of England is very dangerous, very pernicious. My Lord, the things that I speak is not in Relation to time, but in Relation to the publick Justice, for by the same Reason it's granted him, is granted not to be denied to any Man that asketh it, neither for Treason or Felony, and of what evil consequence it would be, I leave your Lordship and the Court to judge.

My Lords, I do bumbly desire that Mr. Lilburn may be dealt with all legal, just, and fair Proceedings from the Court. My Lord, I do desire accordingly, that Proceedings may for the Common-wealth be so too, and that Mr. Lilburn may be without delay according to Law, proceeded against for his notorious Treason.

Lieut. Col. Lilburn. Sir, with your Favour I shall crave but one word, this Gentleman declares unto you what an evil President it would

be to give me a little time to consult with Counsel, to frame a Plea for my Life, and yet that Judge was pleased to lay the Law of England as founded upon the Law of God, and the Laws of Reason, unspotted, uncorrupted, or undefiled, I am sure the Laws of God, and the Laws of uncorrupted Reason is to do as you would be done to, and not to lay Injuries for your Neighbour's Life. I am sure the Law of God would have all Tryals indifferent, and no Man's Life surprized or taken away by niceties or formalities, though never so notoriously accused. And Sir, for Mr. Pridene and others of you, so often to call me notorious Traitor as you do: I tell you Sir, you reproach me, for though I am never so notoriously accused, yet in the eye of the Law of England, I am an innocent Man, yea as innocent as any of those who call me Traitor, till such time as I be legally convicted of the Fact or Crime laid unto my Charge, and therefore, Sir, I beseech you cease your calumniating of me, for you thereby deal not fairly nor legally with me. And, Sir, I confidently hope, I shall appear in the eye of the Law, in the eyes of you, and in the eyes of all Men that hear me this Day, an Innocent, a Just, and a True English-man, that really Loves the Welfare of his Native Country, if I may have fair play, and the scope of the Law. And therefore, Sir, blemish me not in the Ears of the Auditors, till the Law, and a Conviction by it do blemish me; for I tell you, I am in the eye of the Law, as Innocent as any of your selves till I be justly convicted; and therefore I pray cease the calling of me Traitor in this manner.

Lord Keeble. What need we any more when we are of your Opinion, we will you may come as clearly off as you say you hope to do?

Mr. Attorney. My Lord, and that it may be so declared, and that the World may know whether Mr. Lilburn be an innocent Man or no, I pray put it to the final issue, and let the Law judge.

Lieut. Col. Lilburn. Under Favour, for me to be denied Law, which I conceive is done unto me, when I am denied Counsel, and to put the niceties and formalities of the Law upon me, the signification of which are writ in such Language and Tongues as I cannot read, much less understand, and would you destroy me for the not knowing of that which it is impossible for me to know? Sir, I beseech you be not so extream towards me, that Gentleman saith, the Law of God is the Law of England, and it would have no Injuries laid to take away a Man's life; I pray let me have the Benefit of that.

Mr. Attorney. Once you had, and it is but just you should, and I am sure it will be granted unto you.

Lord Keeble. Mr. Lilburn you say well, the Prisoner doth not know the Law, you do not, and many others do not; but I tell you again, you know so much of the Law as is suitable to this Plea, you your self know, whether your Conscience accuse you Guilty of the Fact laid unto your Charge or not; for our parts, we say no more then 21 Men upon their Oaths have informed us, upon sufficient testimony of Witness, that what they had said, we should further inform our selves of before your life be taken.

then away; yet such is the Law of England, the strictest Law in the World of a Man's life. I say again, that no such Tryals for life, as is found in this World, as in England—no any place but in England, A Man's life may be taken away upon two or three Witnesses, but in England two or three Witnesses do not do it; for there is two Jurors witness, and you have 24 Men returned, you have 21 Men upon their Oaths and Consciences, that have found you Guilty, and yet when you have done that, it is not enough by the Law of England, but you are also to have 12 rational understanding Men of your Neighbours to bear all over again, and to pass upon your Life. This is not used in any Law in the World but in England, which both the righteousness and mercifulness Law in the World, and this we set here to maintain, and let all the World know it, that according to the Rules thereof we have proceeded against you.

Judge Michel. Mr. Lilburn, you were speaking of the Laws being in other Tongues, those that we try you by, are in English, and we proceed in English against you, and therefore you have no cause to complain of that.

Learn, Col. Lilburn. By your speeches you seem to bind me up to a single Plea. Truly I conceive that is not equitable by the Law of God and the Laws of Reason: No Man's Life is to be destroyed by niceties and formalities; yet contrary to your solemn Promises, you take all advantages against me by them, (and make my Ignorance in the ticklish Formalities of the Law, to be the means of my own destruction,) although before I Pleaded you ingaged unto me you would take no advantage by my Ignorance in your Formalities, and my Mistakes in them, should be no disadvantage unto me, and yet now I have Pleaded, you seem to hold me close to a single Plea. Truly, Sir, I think that is not just nor fair so to break your Promises, and by fair words to smooth me on into nets and snares, and to make use of my Willingness to be Tried by the Law of England, to dril me on to my own destruction. Truly, Sir, had I ever thought or believed, I should have been denied Counsel, I would have died before ever I would in any manner have Pleaded to your Charge, or have yielded to your smooth Inducments.

Justice Jeremy. Those Men that know the Law of England, know well, that it taketh away no Man's Life but upon clear proof, and upon manifest Contempt of the Law: The Law is, Whosoever shall go such a way in a Court as evidently gives affront to the Law, that such one takes away his own Life; The Facts now you are charged with, if they had taken effect, would have taken away the innocent Lives of many. Therefore you are now before us charged with the Fact, and every Man's Conscience knows whether he committed the thing charged upon him, or no, and your self does know whether you be Guilty of that you are accused of, or no. But the Court must not spend any further time for Mr. Attorney General to burn the Writ of Venire facias. For the calling or summoning of a Jury of Life and Death.

Lord Eccles. Mr. Lilburn, you say you well understand your self:

you know of your coming, and are ready of the Test that you have committed.

Lord Col. Lillburn. Truly, Sir, six Months ago I heard much of my Tryal, and I begged for it, but could not have it, but was still kept in Prison, and abundance of provocations put upon me, to make me cry out of my Oppressions, and then to hang me, therefore by a Law made after my pretended Crime, was committed is not just; and truly, Sir, I hear by uncertain common fame of my Tryal now. But Parliament Men tell my Wife and Friends, that my chiefest Crime was corresponding with the Prince; and to defend my self against that, I fitted my self, never dreamt that only Book I should be laid to my Charge, and therefore I could not, as to that come prepared; and therefore do humbly desire Coupland a Copy of my Indictment, and time to bring in my Witnesses.

Lord Keeble. Hear what is said to you, for your Witnesses, you know we have brought them with you, we'll give you leave to send for them, we will give you time to do, to consider with your self, what to say for your self, you shall, till to morrow seven a Clock.

Lord Col. Lillburn. Sir, some of my witnesses Lives abides 100. or 120 miles off, and yet I must bring them to Morrow Morning, how's that possible; and therefore I desire time to bring them in, and also Subpoena for some of them, are Parliament Men, and some of them Officers of the Army, and they will not come in without compulsion.

Lord Keeble. That's the time we will give you longer, you know you coming long ago, and therefore ought to have come prepared.

Lord Col. Lillburn. Sir, I beseech you give me a convenient time, but 10 days that so I may get them together, for how could I be provided before hand for any thing, but for that for which I was at the first imprisoned for, nothing of which is now laid to my Charge. Could I say upon what you would proceed against me, but, Sir, I have it within me, I bless God, that will be a portion of comfort to me, to carry me through all your Malice and Injustice.

Lord Keeble. Never talk of that which is with you, for God is in us well as in you: never make a flourish of what is in you, for the first good is before your eyes, as well as yours, and what we do, we shall be comforted in, in that it is according to the Law of England, the Rules which we are bound to observe, and every Man will do righteous things well as you.

Lord Col. Lillburn. Pray will you give me but eight days time then.

Lord Keeble. We will give you no more, you ought to have brought them with you, you knew of it long ago, and the Courts cannot do you wrong upon you.

Lord Col. Lillburn. By your favour, Sir, that then let me have little time to consider, such Compel.

Lord Keeble. I tell you, this of the Master he agreed, there are no Counsel.

Lord Col. Lillburn. Sir, I shall not much insist upon that, but

Quod.

Question is, whether the Matter be treason, in law, or no, and whether
it be rightly expressed in the Indictment, as to time and place,
and other circumstances thereto belonging: and I Question the lega-
lity of the Indictment, and that ought, in Law, so be disputed, before the
matter of Fact come to be spoken to.

Lord Keeble. Sir, you said at first, you would speak no political
and moderate Man, and yet you will not be answered. If Master of
Law do youse out of your staff, that no man told you again, and again,
that Justice, Truth, and Justice.

Lieut. Col. Lilburn. Sir, by your favour, it may be too late to desire
Council after the Fact is proved. And besides, having legal exceptions a-
gainst the Indictment, why should you run upon the hazard of my
life, by such ill Nominis and Formalities, and as my Prosecutor Mr.
Preston said, —— (but being interrupted, continue,) Sir, I beseech
you do but hear me.

Lord Keeble. Your Answer will break out, your heart is full of
saying Malice and Vengeance, you cannot conceal your self in such words.

Lieut. Col. Lilburn. Mr. Preston is pleased to urge, that the granting
of any desire in reference to Council, will be a inconvenience a Pres-
ident, as will destroy the Commonwealth, therefore to avoid the dan-
ger of such a destroying President, as he is pleased to call, I desire to
have some time assigned me to argue my cause together, and when I
shall, I doubt not, but convincingly shew you the hazard and destroying
disease of that desperate President in denying Men liberty to consult
with Council, when they are upon Trial for their Lives. For my own
judgment, my own Conscience doth tell me, that it is my undoubted
right by the Law of England, by the Law of God, and the Law of Rea-
son; and if it be totally denied me, I can but die, and upon that Score,
by the assistance of God, I am resolved to die.

Lord Keeble. You speak great words of your own Judgement, your own
Conscience, your own Zeal, and the like. And I tell you, our Consciences
and our Religion, and our Zeal, and our Righteousness, I hope shall ap-
pear as much as yours; you would make your self Judge in your own Cause,
which you are not, and so make Ciphers of us; but all your high words of
Conscience and Righteousness is but a flourish, to make the People believe
you to be apprehensive as though we had none, you had all, but you shall
know, here we sit with as much Tenderness and Integrity as you stand
here, and to do that uprightly which is according to Law and Justice.

Lieut. Col. Lilburn. I shall not in the least make any Comparisons,
either do I in that particular, I only speak of my own particular, in re-
ference unto that God in whom I have believed, and in whom I enjoy Con-
tent, Peace and Quietness of Mind, and yet for my part I shall rather
die than willingly go any further, except I have Council.

Lord Keeble. Well, Mr. Lilburn, the Court is very tender not to take
any of your time, you have heard what was declared to you there, that
the Attorney hath made process against you returnable, to morrow at
seven

from of the Clock, and therefore to spend no time will be but pain and damage, the Sheriff of London are to take care to return the same to Morrow Morning; and therefore the Court doth adjourn till tomorrow Morning, and in the mean time they do commit the Prisoner at the Bar, to the Lieutenant of the Tower again.

Lieut. Col. Lilburn. Sir, I did not hear you the first words.

Lord Keeble. You shall not be denied to hear it again, the Court doth first to be good husbands of time for you, we could have sat long enough to have trifled away your time that you may spend your Meditations, and take your Friends Advice, do not stand upon and destroy your self by what Mr. Lilburn, all that are here, are to take Notice of it, that the Prisoner at the Bar hath had more Favour already, than ever any Prisoner in England in the like Case ever had, for by the Law of England, is he a Master of Treason, whereof you are Indict'd, you ought to have been tried presently, immediately; but because all the World shall know with what Candor and Justice the Court do proceed against you, you have till Morrow Morning, which is the Court's extraordinary Favour, and the doors are wide open, that all the World may know it.

Lieut. Col. Lilburn. Sir, I can shew one hundred Presidents contrary in your own Books, to disprove what you say.

Lord Keeble. Adjourn the Court.

Lieut. Col. Lilburn. I humbly thank you for what Favour I have already received.

The Court adjourned till the next Morning, and the Prisoner committed to the Tower.

Guild-Hall, 26 of October, 1649, being Friday.

At the Tryal of Lieut. Col. JOHN LILBURN the Second Day.

THE Prisoner being brought to the Bar, spoke as followeth: Sir, I pray hear me a word or two.

Lord Keeble. Mr. Lilburn, I am afraid something troubleth you, I have no body stand there, & let all come out but one Man.

Just. Ferrys take Notice, the Judge stood up and spake out an appeal to the People.

† That was in the Bar, where his Brother Col. Robert Lilburn, Solicitor Mr. Sprat, and other of his Friends stood.

Lieut. Col. Lillburn. Here's none but my Brother and my Solicitor.
Lord Keeble. Sir, your Brother shall not stand by you there, I will
only bring one hold your Papers and Books, and the rest will trouble you,
therefore the rest are to come out.

Lieut. Col. Lillburn. Sir, I beg of you but one word, though I do
not know any Reason why of my self I should not have the Privilege of
the Law, as well as any Man in England, yet besides, what yesterday I
pledged for my self, for to have Counsel assigned, yet to day give me
leave to mention an unquestionable President for my Purpose, and that
Major Rolfe, who being an Officer in the Army, and being lately im-
plicated for High Treason (before the Lord Chief Baron *Wilde*, that now
at *Hampshire*坐着, for conspiring to Poison and Pistol the late
King, which by Law was the Highest of Treasons) did conceive himself in
regard of his Ignorance, unable to defend himself singly, against his Accu-
lates design, which was to take away his Life; whereupon he becomes an
able Suitor to the Lord Chief Baron *Wilde*, that he might have Coun-
sel assigned him, and the Court before ever the Grand Jury received any
testimony against him to find the Bill assigned him Counsel, who as I un-
derstand were one Mr. *Nichols*, now a Judge of this Bench, and sitting there
and Mr. *Maynard* of the Temple, they were both assigned his Counsel, and
from Mr. *Maynard* himself I have it, yea, from his own mouth who be-
ing assigned his Counsel, they came into the Court, where the Grand
Jury was called before the Judge: Mr. *Maynard* and Mr. *Nichols*, now a
Judge here, had liberty there to be in the open Court, where the Wit-
nesses before the Indictment was found, were called and in open Court were
sworn, and in open Court gave in their Evidence before the Grand Jury,
Major Rolfe's Counsel being by in open Court, to hear all the Evidence
that was given against Major Rolfe, who in his Indictment was Indicted
of two Matters of Fact; the first was, that he had declared that in such a
Bench, and at such a place, he had an intent to Pistol the late King;
which by the Letter of the Law of the 25 *Edw. 3. Chap. 2.* was Treason;
but there was another Charge, that such a day he had so said or declared
to Poison Him, in the presence of such a one, and they were both put
to one Indictment; whereupon Mr. *Maynard*, being assigned by the L.
Chief Baron *Wilde*, that now is, to be of Counsel for Rolfe in the same
case (but with abundance of more advantage to him, that I am now in)
Mr. *Maynard* was then of Counsel to the Prisoner, and had liberty to hear
the Witnesses swore against him, and to make his best advantage of
them, and that in open Court, before the Indictment was found by the
Grand Inquest; and although there were two express Witnesses against
him, yet but one of them swore to one thing, and another to another;
Mr. *Maynard* being one that knew the Law better then Major Rolfe did
himself, he applied the two Statutes of *Edward* the sixth, viz. the 1 *Edw.*
Chap. 12. and 5. and 6. of *Edw. 6. Chap. 11.* to Rolfe's Case, which Statutes
do expressly declare, That no Man ought to be convicted of Treas-
on, but by two sufficient Witnesses upon plain and clear Evidence to such

Facts of Treason, which Evidence, as Sir Edward Coke says in the third Part of his *Vincentia*, ought to be as clear as the Sun at Noon-day, and not upon oswingle Witness, and upon conjectural Presumptions, or Inference or Strains of Wit: Now, Sir, I am an Englishman as well as Major Relf, and I have been an Officer, for the Parliament Army as well as he, and there fought for them as heartily as ever he did in his Life, and he was accused for the highest of English Treasons; and therefore I humbly crave that in regard there are many particular Errors in the Indictment, at March, Epsom and Place, that therefore in reference to the illegality of the Indictment according to this President, by one of your own fellow Judges thus you will according to my Birth-right, declared in Major Relf's Case, assign me Counsel as he had, to help my Ignorance, that so I may not be destroyed by surprize, and illegal, and unjust Prerogatives.

Lord Keeble. You are with what a great deal of Favour, instead of few words, we have heard you many, this is a Privilege, but this the you say upon it, it may be it was done, but that we do, shall be according to this you and we, shall find so be according the Laws of the Land, in our Conscience, and the Privilege of the Subject: that is to say, they did by *synthesis* Grand Jury, and the Witnesses, the Witnesses are here, in the Court in presence of the Grand Jury, so far we go with them, that of Mr Maynard and Mr Justice Nicholls, being assigned Counsel, for what Counsel, was this they best know, it is nothing that doth now concern us, in this Treason was against these Laws, that then were in being, we may constitute a precise may to confess his Fact; if you will do so, so is also the Counsel, who as has been said, has not any instructions and directed to

Lord Coldeburn. No, Sir, he never confess it, for if he had, he had been found Guilty; but he was saved merely by the skill and heed of his Counsel Mr Maynard, and his Indictment null and evaded, so far, ever the Grand Jury found it, and that upon this Point of Law, as made by the two Statutes of Edward 6, there ought to be two plain and clear Witnesses, to every part of Treason; and though Relf, was accused by two Witnesses, yet there was two Facts, and but one Witness, the Proof of each of them.

Lord Keeble. When you come to Trial, if we say there be need of Counsel, the Court will be instead of Counsel to you, say, the Court is the King's Master of Law for Counsel, though you do not ask it, they will give you it, and therefore set your heart at rest, for if there be any thing irrational in Law that we can file out, as well as your Counsel, we will help you in it.

Lord Coldeburn. Swear, Sir, I crave but one word more, I am on my Life, and if you deny me what the Law affords me, and that which hath been granted to be Law by Cavalier Judges, yea, and by your own Judges, who are now in Power at this Day; the Lord deliver them standing in need of you to be my Counsellors.

Lord Keeble. We are upon our Lives too as well as you.

Lord Coldeburn. No, by your Favour, not in so imminent a manner as I am.

Lord Keeble. *We are upon our Lives, and our Souls, to a high廷級*
 Lieut. Col. Lilburn. Sir, I beseech your Honor the next word. *我將說*
 Lord Keeble. *I will bear no more. I beseech you, Sir, to know*
 Mr. Prideaux. *My Lord, I desire the Court would proceed, and not*
delaying time, seeing he has pleaded not Guilty, and confessed something
 Lieut. Col. Lilburn. *No, Sir, you do me wrong, and abuse me; you*
*have never confessed any thing, neither did I Plead not Guilty; *我說* *我沒有**
it, and it was conditional, grounded upon your Promises, not to take any advantage
of my Ignorance in your Formalities.

Lord Keeble. *Go on, be silent, Mr. Lilburn.* *我將說*
 Lieut. Col. Lilburn. *If you take away my Life without affording me*
the Benefit of the Law, my innocent Blood be upon your Heads.

Lord Keeble. *Sir, These passionate Words will do you no good, you*
had better forbear them.

Lieut. Col. Lilburn. *Pray hear me then? *我將說* *我將說**

Lord Keeble. *Do you say that we do offer to take away your Life, Sir,*
*we do take it away contrary to Law, we are liable to *Impeachment* for it;*
did you not yourself judge what you have done (the Lieutenant Colonel pressing
more) speak was not suffered, but bid be silent) Sir, I advise you, Sir, friend
of His Majesty will forbear and bear the Court

Justice Jeremy. By God, Sir, you may bear, but I am told you are under

Law. Col. Lilburn. I beseech you, Sir, let me hear but that Grand
jury speak, for I understand from some of themselves; they never found
me guilty of Treason, but do conceive themselves wronged by some words
yesterday, that passed from some of the Judges; I pray let me bear them
had, and sent.

Lord Keeble. *Mr. Lilburn, You said you would be rational, you would*
moderate; you do break out, you will do your self more harm than any
man can do you; you must be silent and bear the Court, we can do you
no more time to bear you; Cryer call the Jury.

Cryer ——— The Jury called (and Mr. Lilburn earnestly pressed

to be heard, but could not) Cryer ——— Miles Petty, William Worm-

Lieut. Col. Lilburn. Sir, I beseech you let me do so for these Gentlemen

if they wish their Faces.

Lord Keeble. You, Master Sprat, you must not talk to the Prisoner;

you may stand and hold the Books; you did offend yesterday, but you shall

not do so to day, for you shall not stand near the Prisoner to talk to him.

Lieut. Col. Lilburn. My Lord, the Law says a Standby may speak

to the Prisoner behalf at the Bar, much more whisper to him, but espe-

cially if he be his Solicitor.

Cryer ——— John Sherman, Thomas Dalney, Ralph Ely, Edmund

Leyster, Edward Perkins, Ralph Packman, Francis Woodall, William

Commins, Henry Hudson, Roger Jenkinson, John Hulme, Richard

Allen, Richard Nevil, John Mayo, Henry Jookey, Arthur Doe, Roger

— Clerk.

Clerk. The good Men of the City of London, appear.
Steven Ives, John Sherman, Ralph Ely, Roger Jenkinson, John Hammond, Richard Allen, Richard Nevil, Roger Scars, John Mayo, Nicholas Mure.

Clerk. The Prisoner at the Bar, these good Men that are here presented before the Court, are to be of your Jury of Life and Death; if therefore you will challenge them, or any of them, you must challenge them before they go to be sworn, and then you shall be heard.

Cryer. Every Man that can inform my Lords the Justices, and the Attorney General of this Common-wealth, against Master John Lilburn Prisoner at the Bar, of any Treason or Felony committed by him, let them come forth; and they shall be heard, for the Prisoner stands upon his diligence; and all others bound to give their attendance here upon Pain of Forfeiture of your Recognisance, are to come in.

Lieut. Col. Lilburn. Sir, I beseech you give me leave to speak?

Lord Keeble. You cannot be heard.

Lieut. Col. Lilburn. Truly, Sir, I must then make my Protest against your unjust and Bloody Proceedings with me; before all this People, and desire them to take Notice, that yesterday I Pleadeth to my Bill, conditionally, that no advantage should be taken against me, for my Ignorance in your Formalities, and you promised me you would not.

Lord Keeble. We give you too much time; you will speak words that will undo you; is this your Reason? you shall talk in your legal time, and take your legal Exceptions, we will hear you till midnight.

Lieut. Col. Lilburn. Then it will be too late, Sir.

Justice Jermyn. You have given a great slander, and that doth not become a Man of your Profession; you speak very black words.

Lieut. Col. Lilburn. I beseech you do but hear me one word; I do not know the Faces of two of the Men that were read unto me, I hope you will give me time to consider of them.

Lord Keeble. No, Sir, you ought not to have it.

Lieut. Col. Lilburn. Will you let me have some Friends by me that are Citizens of London, that know them, to give me Information of their Qualities and Conditions, for without this, truly you may as well hang me without a Tryal, as to bring me here to a Tryal and deny me all my legal Privileges to save my self by.

Lord Keeble. If you be your own Judge you will judge so, go on.

Mr. Sprat, or Col. Robert Lilburn. Whispers to the Prisoner, to challenge one of the Jury, which the Judge excepted against.

Lieut. Col. Lilburn. Sir, by your Favour, any Man that is a by-stander may help the Prisoner, by the Law of England.

Lord Keeble. It cannot be granted; and that fellow come out there with the white Cap, pull him out.

Lieut. Col. Lilburn. You go not according to your own Law in dealing thus with me.

Justice

Justice Jermyn. Your words were never a slander, nor never will be, hold your Peace: Cryer go on.

Cryer. Stephen Blyth, look upon the Prisoner.

Abraham Seal, John King, Nicholas Murren, (Thomas Dariel) the Prisoner excepted against him, Edward Perkins, Francis Peale.

Justice Jermyn. Was he recorded and sworn before he spoke or no?

Cryer. No, my Lord.

Justice Jermyn. Then let him continue if he be right recorded.

Cryer. The Oath was not given quite out.

Justice Jermyn. Then he hath challenged in time, let him have all the lawful Favour that may be afforded him by Law.

William Comins Sworn, Simon Weedon Sworn.

Lieut. Col. Lilburn. He's an honest Man, and looks with an honest Face, let him go.

Henry Tooley Sworn, Arthur Due (excepted against).

Lord Keeble. Take away, Mr. Due, let him stand a little by.

Henry Hanson put by being sick, one that could not hear excepted against, John Sherman, Ralph Head, Roger Jenkinson, Josias Hamond, Richard Allen, John Mayo, Roger Scars, Henry Hanson, excepted against, Edmund Keyzer Sworn.

The Jury Called.

Clerk. Twelve good Men and true, stand together and here your Evidence.

Justice Jermyn. Cryer of the Court, let the Jury stand six of the one side and six of the other.

Clerk.	1 Miles Petty	7 Edw. Perkins
	2 Stephen Lics	8 Ralph Packman
	3 John King	9 William Comins
	4 Nicholas Murrin	10 Simon Weedon
	5 Thomas Drinty	11 Henry Tooley
	6 Edmund Keyzer	12 Abraham Smith.

of the Jury, six lives about Smithfield, one in Golling-street, two in Cheap-side, two in Bread-street, and one in Friday-street.

Justice Jermyn. It's well done.

Cryer. The Lords, the Justices, do straitly Charge and Command all manner of Persons to keep silence, while the Prisoner is in Tryal.

Mr. Broughton. John Lilburn, hold up thy hand.

Lieut. Col. Lilburn. As I did yesterday, I acknowledge my self to be John Lilburn Free-man of London, Son to M. Richard Lilburn, of the County of Darham, and sometime Lieutenant Colonel in the Parliament Army.

Justice Jermyn. You refuse to hold up your hand, and though you break the Law of England, the Court will not break it.

Lieut. Col. Lilburn. I do what the Court declares what is my Right and Dury to do, I do no more than declare my Name to be so as it is.

Lord Keeble. Read the Indiftment.

Mr. Broughton Roode, Hold up thy hand John Lilburn, thou scattelest here indicted of High-Treason by the Name of John Lilburn, late of London Gentleman, for that thou as a false Traytor, not having the fear of God before thine Eyes, but being stirred and moved up by the Instigation of the Devil, didst endeavour not only to disturb the Peace and Tranquillity of this Nation, but also the Government thereof to subvert: now established without King or House of Lords, in the way of a Common-wealth, and a free-state, and happily established, and the Commons in Parliament assembled being the supreme Authority of this Nation of England, to Disgrace, and into a Hatred, base Esteem, Infamy and Scandal, with all the good True and Honest Persons of England to bring into Hatred, That is to say, that thou the said John Lilburn, on the first day of October in the year of our Lord 1649, and in divers other days and times, both before and after, in the Parish of Mary the Arches, in the Ward of Cheap London aforesaid, of thy wicked and devilish Mind and Imagination, Falsly, Maliciously, Advisedly, and Trayterously, as a false Traytor, by writing and imprinting, and openly declaring, that is to say, by a certain Scandalous, Poisonous, and Trayterous Writing in Paper, intituled *A falsa Libertate*; and by another Scandalous, Poisonous and Trayterous Book, intituled, *An Impeachment of High Treason against Oliver Cromwel, and his Son-in-Law Henry Ireton, Esquires, late Members of the late forcibly dissolved House of Commons, presented to publick View by Lieutenant Colonel John Lilburn, close Prisoner in the Tower of London for his real, true and zealous Affections to the Liberties of the Nation*; and by another Scandalous, Poisonous and Trayterous Book, imprinted and intituled, *An Out-cry of the Young-men and Apprentices of London, an Inquisition after the lost fundamental Laws and Liberties of England directed August 29. 1649. in an Epistle to the private Soldiers of the Army, especially all those that signed the solemn Engagement at Newmarket heath, the fifth of June, 1647. but more especially the private Soldiers of the Generals Regiments of Horse, that helped to plunder and destroy the honest and true-hearted Englishmen, trayterously defeated at Buxford, the fifteenth of May, 1649.* and also by another Scandalous, Poisonous, and Trayterous Book, intituled, *The legal fundamental Liberties of the People of England, revised, affrested and vindicated*, did publish that the Government aforesaid, is Tyrannical, Usurped, and Unlawful; and that the Commons assembled in Parliament, are not the supreme Authority of this Nation: and further that thou the said John Lilburn, as a false Traytor, God before thin eyes not having, but being moved and led by the Instigation of the Devil, endeavouring, and maliciously intending, the Gover

* Note, that Mr. Lilburn was imprisoned by the Council of State as a Traytor, the twenty eight of March 1649. and they there came and after arraign him as a Traytor, for Actions done above five Months after, touching all the pretended Crimes for which they first imprisoned him.

Government aforesaid, as is aforesaid, well and happily established; thou
 the said John Lilburn, afterwards (that is to say) the, the aforesaid first
 Day of October, in the Year of our Lord, 1649. aforesaid, and gives
 others days and dates, as well before as after, at London aforesaid, that
 is to say, in the Parish and Ward aforesaid, London aforesaid, Malicious-
 ly, Advisedly, and Trayterously didst Plot, contrive and endeavour to stir
 up, and to raise People against the aforesaid Government, and for the sub-
 verting and alteration of the said Government, and to do most wicked,
 Malicious and Trayterous Advancement to put in Execution, &c. and thou
 the said John Lilburn, afterwards, that is to say, the aforesaid first Day
 of October in the Year of our Lord, 1649. aforesaid, and divers days and
 times, as well before as after, at London aforesaid, that is to say, in the
 Parish and Ward aforesaid, of thy depraved Mind, and most wicked Im-
 agination, in and by the aforesaid Scandalous, Profidious, and Trayte-
 rous Book, intituled, *An Imputation of High Treason against Oliver*
Cromwell, and his Son-in-Law Henry Ireton, Esquire, late Members of
the late formerly distressed House of Commons; presented to publick View by
the late deceased Colonel John Lilburn, the Prisoner in the Tower of London,
for his real, true and zealous Affection to the Liberties of his Native Country,
Proficiency, Maliciously, Advisedly, and Trayterously, didst publickly declare amongst other things in the said Book, chose Falle Scandalous, Ma-
*licious and Trayterous Words following: *Let my true Friends* (meaning*
the Friends of the said John Lilburn) I (meaning the
foresaid John Lilburn) shall here take upon me the * This Par-
blem, considering the great distraction of the present sage you may
times, to give a little farther Advice to our Friends aforesaid, from whose Company or Society, or from some of
them, which been began and issued out the most transcendent,
clear, rational and just things for the People's Liberties and Freedoms,
That the foresaid John Lilburn, had seen or read in this Nation, as your
middle and extremitie Petition of May the 20th, 1647. burnt by the hands
*of the Common Hangman, recorded in my Book called Rash Oaths unwarrant-
 able, pag. 29, 30, 31, 32, 33, 34, 35. with divers Petitions of that na-
 ture, and the Petition of the 19th of January, 1648. recorded in the fol-
 lowing Discourse, pag. 45, 46, 47, 48. and the Malicious Petition of the*
eleventh of September, 1648. so much owned by Petitions out of several
Counties, yea, and by the Officers of the Armies large Remonstrance
from St. Albans, the sixteenth of November, 1648. pag. 67, 68, 69. the
*sufficiency of all which I (thou the foresaid John Lilburn meaning) com-
 plete is contained in the printed Sheet of Paper, signed by my fellow Pri-
 viders, Mr. William Walwin, Mr. Richard Overton, and Mr. Thomas*
*Prince, and my self, dated the first of May 1649. and intituled the Agree-
 ment of the free People in England; which Falle, Scandalous and Trayte-
 rous Book, called the Agreement of the People of England, tends to the
 Alteration, and Subversion of the Government aforesaid; the Principles
 of the foresaid Agreement, I mean by our self the said John Lilburn hope*

hope and desire you (the Friends of the foresaid John Lilburn meaning) will make the final Centre, and unwavering Standard of all your Desires, Hazards and Endeavours, as to the future Settlement of the Peace and Government of this distressed, wasted, and divided Nation, the firm establishing of the Principles therein contained, being that only which will really, and in good earnest marry and knit that Interest, whatever it be that dwells upon them, unto the distressed or oppressed Commons of this Nation.

But the Principles of the foresaid Agreement, being so detestable and abominable to the present ruling Men, as that which they know will put a full End to their Tyranny and Usurpation, and really ease and free the People from Oppression and Bondage ; that it is something dangerous to those that go above the Promotion of it ; yet I shall advise and exhort you, (meaning the Friends of him the aforesaid John Lilburn) vigorously to lay all fear aside, and to set on foot the Promotion of it (meaning the said Agreement) in the same Method we took for the Promotion of the foresaid Petition of the ninth of January, 1647. laid down in the following Discourse, pag. 23, 24, 25. and write to all your Friends in all the Counties of England, to chuse out from amongst themselves, and send up some Agents to you (two at least, for each County, with Money in their Pockets to bear their Charges) to confer with your called and chosen Agents, of some effectual Course, speedily to be taken, for the settling of the Principles hereof (meaning the aforesaid false Agreement devised by your self, the aforesaid John Lilburn) and to set up the promoting of (the aforesaid feigned Agreement meaning) as that only which in an earthly Government can make you (the aforesaid Friends of the said John Lilburn) happier, at least to know one another's minds, in owning and approving the Principles of the foresaid false Agreement, that so it may become to you (meaning the foresaid Friends of the foresaid John Lilburn) and all your Friends, your Centre, Standard and Banner, to Flock together to, in time of those Foreign Innovations, and domestick Insurrections, that are like speedily to bring Miseries enough upon this poor distressed Nation (the aforesaid Nation of England again meaning) and unanimously resolve and engage one to another, neither to side with, or fight for, the Chimere's, Foolscies, and Pride of the present Men in Power (the aforesaid Parliament of England meaning) nor for the Prince his will, nor any other base Interest whatsoever, the which if you (the aforesaid Friends of the said John Lilburn meaning) should fight for, it would be but an absolute Murther of your Brethren, and Country-men you know not wherefore, unless he or they will come up to those Just, Righteous, and Equitable Principles therein contained, and give rational and good Security, for the constant abiding therewith.

And upon such Terms, I do not see but you may justly before God or Man, joyn with the Prince himself, yea, I am sure a thousand times more jolly, than the present Ruling Men (upon a large and serious debate)

base) joyned with *Owen-Ros-Oriole*, the grand bloody Rebel in *Ireland*; who, if we must have a King, (I meaning be the aforesaid *John Lilburn*) for my part I had rather have the Prince (meaning *CHARLES STUART*, Son to the late KING, than any Man in the World, because of his large pretence of Right, which if he come not in by *Conquest*, by the Hands of Foreigners (the bare attempting of which, may apparently hazard him the loss of all at once) by gleving together the now divided People, to joyn as one Man against him, but by the Hands of *Englishmen*, by Contract upon the Premisses aforesaid (which is easily to be done), the People will easily see, that presently therupon they will enjoy this transcendent Benefit (he being at Peace with all Foreign Nations, and having no Rival pretended Competitor) *viz.* The immediat disbanding of all Armies, and Garisons, saving the Old Cinque-Ports, and so those three grand Plagues of the People will cease, *viz.* Pre-quadants, Taxations, and Excise, by means of which, the People may once again really say, they enjoy something they can in good earnest call their own; whereas for the present Army to set up the pretended false *Saint Oliver*, (or any other) as their elected King, there will be nothing thereby from the beginning of the Chapter, to the End thereof, but War, and the cutting of Throats, Year after Year; yea, and the absolute keeping up of a perpetual and everlasting Army, under which the People are absolute and perfect Slaves, and *Nassals*, as by woful and lamentable experience they now see they perfectly are, which Slavery and absolute Bondage is like daily to increase; under the present Tyranical, and Arbitrary new Erected, Robbing Government, and therefore rous up your Spirits before it be too late, to a vigorous Promotion, and settling of the Principles of the fore-said Agreement, as the only absolute and perfect means to carry you off all your Maladies and Distempers.

Here Lieutenant Colonel *Lilburn* in the first days reading the Indictment, taking Notice of the Judge *Thorp*, and Mr. *Prideaux* to whisper together, cryed out, and said to this effect.

Lieutenant Colonel *Lilburn*. Hold a while, Hold a while, Let there be no Discourse but openly, for my Adversaries or Persecutors whispering with the Judges, is contrary to the Law of England, and extream foul and dishonest Play, and therefore I pray let me have no more of that Injustice.

Mr. Attorney. It is nothing concerning you (let me give him satisfaction) it is nothing concerning you, Mr. *Lilburn*.

Lieutenant Colonel *Lilburn*. By your Favour, Mr. *Prideaux*, *that* is more than I do know, but whether it be or not, by the express Law of England, it ought not to be, therefore I pray let me have no more of it. Mr. *Brougham*. And further, thou the said *John Lilburn* standes Indicted, for that thou the aforesaid first Day of October, in the Year of our Lord, 1649, and divers days and times, as well before as after, in London aforesaid, and in the Parish and Ward aforesaid, didst Maliciously, Advisedly, and Trayterously publish another False, Poisonous, Traytorous, and

and Scandalous Book, intituled, *An Out-cry of the Young-men and Apprentices of London, On an Inquisition after the late fundamental Laws and Liberties of England* ; having these Trayterous and Scandalous Words (amongst other things) following ; that is to say, we (meaning the Young-men and Apprentices of London) considering what

* Which is before premised, " were Necessitated and Compelled to do Words herein the utmost we can for our own Preservacion, and for the Pacification of the Land of our Native, and never (by popular Petition) addressed themselves to the Men sitting at Westminster any more, or to take any more Notice of them, than as of so many Tyrants and Usurers ; and for the time to come, to hinder all much and as farre as our pale despaired Interest will extend to) all other whatsoever from subcribing or presenting any more popular Petitions to them, and only now as we last Hesper refuge, mightily to cry one to each other, of our intollerable Oppressions, in Letters and Remonstrances sign'd in the behalf, and by the appointment of all she rest, by some of the stoutest and fittest amongst us, that we hope will never apostacize, but be able by the strength of God, to lay down their very Lives for the maintaining of that which they set their Heads to : And further, that thou the aforesaid John Ellacombe afterwards, that is to say, the aforesaid first Day of October, in the Year of our Lord, 1649, and divers other days and times as well before as after, not being an Officer or Soldier, or Member of the Army aforesaid, at London aforesaid, in the Parish and Ward aforesaid, as a false Trayter did Maliciously, Advisely and Trayterously endeavour to stirr up a dangerous Mounion, and Trayterous Muster, Mutiny and Rebellion in the Army, now under the Command of Thomas Lord Fairfax, and did Endeavour to draw Thomas Lucius, John Skinner, and John Toppe from their Obedience to their Superiour Officers, &c. and further, did deliver unto the three Soldiers before named, the said Book, intituled, *An Out-Cry of the Young-men and Apprentices of London* ; having these words following contained therein ; Surely all Scule and Compunction of Conscience is not totally departed from you, hear us therefore in the earnest bowels of love and kindness we intice and beseech you with Patience, and do not abus us, for complaining and crying out, for the knife hath been very long at the very throats of our Liberties and Freedoms, and our burthens are too great and many for us, we are not able to bear them and contain our selves ; our Oppressions are even ready to make us despair (or forthwith to fly to the prime Law of Nature, viz. the next violent remedy at hand, light where it will, or upon whom it will) they are become as devouring fire in our bosom ready to burn us up, rendering us desperate and careles of our Lives, prizing those that are already dead, above those that are yet alive, who are rid of that Pain and Torment that we do and must endure, by heable seeing and beholding, not only the dying, but the daily burial of our native Liberties and Freedoms, that we care not what become of us, seeing that we are put into that Original Estate or Chaos of confusion, wherein

wherein Lust is become a Law ; Envy and Malice are become Laws, and
 the strongest Sword rules and governs all by will and pleasure ; all our an-
 cient Boundaries and Land-marks, are pulled up by the Roots, and all the
 Ties and Bonds of Humane Society in our English Horizon totally destroyed
 and extirpated ; Alas, for pity we had rather die than live this Life of a
 languishing Death, in which our Masters possess nothing (to buy them-
 selves or us bread to keep us alive) that they can call their own, there-
 fore it's no boot for to serve out our times, and continue at our dredging
 and coying trades, whilst these Oppressions, Cruelties, and Inhumanities
 are upon us, and the rest of the People, exposing thereby the Na-
 tion, not only to Domestick-Broils, Wars and Blood-sheds (whence
 we are sure our Bodies must be the principal Buts) but to Foreign Inva-
 sions by *France*, *Spain*, *Denmark*, *Sweden*, &c. as was well observed
 by an endear'd and faithful Friend of the fore-mentioned late Treach-
 erously defeated Party at *Berford*, in their Book of the twentieth of *Ma-
 y*, 1649. Intituled, the *Levellers vindicated*, or the err of the twelve
 Troops truly stated ; Page eleven and twelve, which we cannot but
 seriously recommend with them, to your serious perusal and judgment,
 and desire to know of you (but especially the private Soldiers of the Gen.
 Regiment of Horse, who we understand, had a hand in setting upon and
 plundering our true Friends at *Berford*) whether you do own the abo-
 minable and palpable treacherous Dealing of your General, and Lieute-
 nant General *Cromwel*, and their perfidious Officers with them or no ?
 (that so we may not condemn the Innocent with the Guilty, and may
 know our Friends from our Foes) as also to tell us, whether you do ap-
 prove of the total defection of your Army, under which it now lieth, from
 their Faith and fallen Engagement, made at *Newmarket-heath*, June the
 fifth, 1647. not one of those righteous Ends, in behalf of the Parliament
 and People, on which your Vow was made, being yet fulfilled or obtained,
 but on the contrary (as we have before rehearsed) a whole flood-gate of
 Tyrannies are let in upon us, and over whelm us, and whether you (the
 aforesaid private Soldiers meaning) justify all those Actions done in the
 Name of the Army, upon your account, and under the pretence of that
 Engagement, since the Engagement it self was broken, and your Council
 of Adjutors dissolved ? And whether you will hold up your Swords to
 maintain the total Dissolution of the Peoples choicest Interest of Freedom ;
 viz. Frequent and successive Parliaments, by an Agreement of the People,
 or obstruct the Annual Succession ? Whether you do allow of the late Shed-
 ding the Blood of War in time of Peace, to the Subversion of all our
 Laws and Liberties ? And whether you do countenance the Extirpation
 of the fundamental Freedoms of this Common-wealth ; as the Revocati-
 on and Nullity of the great Charter of *England*, the Petition of Right,
 &c. And whether you do Assent to the Erection of arbitrary Preroga-
 tive Courts, that have or shall over-rule, or make void our ancient way
 of Tryals in Criminal Cases, by a Jury of twelve Men of the Neighbour-
 hood ? And whether you will affix or joyn in the fortible Obstruction of

you shall then enquire whether he did not fly for it, and if he did not fly for it, Then you are to say so and no more, therefore hearken to your Evidence?

Lient. Col. Lilburn. May it please your Honour,

Cryer. If any Man can give any Evidence to my Lords the Justices of Oyer and Terminer, against Mr. John Lilburn, let him come in and he shall be heard.

Lient. Col. Lilburn. I desire to be heard to speak two or three words, I humbly desire the Favour to speak two or three words. I humbly desire the Favour to be heard two words.

Lord Keeble. It is not a fit time, you shall be heard in your due time, but hear what the Witness say first.

Lient. Col. Lilb. I conceive I am much wronged, in saying that pleaded not Guilty, for I pleaded no such Plea, I appeal to the Court, and to all that heard me, whether I pleaded any such Plea; for before pleaded, the Court became engaged to me, to take no advantage of my Ignorance of the Formalities of the Law, and promised to give me as much Privilege as my Lord Duke of Hambleton, and others enjoyed, before the Court of Justice.

Lord Keeble. We know all this.

Lient. Col. Lilburn. Sir, by your Favour, I pleaded conditionally, and now I make my absolute Plea to the Indictment, which is this; That except against the Matter and Parts of it in Matter, time and place, I humbly crave Counsel to assign and plead to the Errors thereof.

Lord Keeble. You must hear us, we hear you, a word is a great thing, these things we have taken perfect Notice of, the Court is not ignorant of them.

Therefore they need not so suddenly be repeated to us again, you may not repeat these things; for I tell you again, they are all fresh in our Memorials, and that we have done we must maintain, or we have done nothing.

Lient. Col. Lilburn. Truly, it is requisite for me to say, that I am wronged, I had no such single Plea; I plead a Plea at large to the Errors of the Indictment, and first now crave Liberty of the Law of England to have time and Counsel assigned me.

Lord Keeble. You shall have the Laws of England, although you refuse to own them, in not holding up your hand; for the holding up of hand hath been used as a part of the Law of England these 500 Years.

My Lord, the Prisoner at the Bar stands Indicted Mr. the a Traitor, for that he Contriving, and Maliciously Counsell that sending not only to disturb the publick Peace; but was an Afflant to Mr. in a free State, or Common-wealth, without a King, an House of Lords, and the Commons in Parliament Prudenx. assembled, to bring in Disgrace and Confusione amongst

and Men, he did the first of this instant October, and divers times before and since in this City, Falsly and Maliciously, Advisedly and Traytorefully by Writing, Printing and openly declaring, in and by the Paper of a called, A Sola Libertate, and by divers other Papers and Books, wherein he calls, An Impeachment of High Treason against Oliver Cromwell, and his Son-in-Law Henry Ireton; and another Book of his intended, An Out-Cry of the Young-men, and Apprentices of London, directed to all the private Soldiers of the Army, &c. a Third, A prepara-
 to an Huc and Cry after Sir Arthur Heslerigg, and a Fourth, The
 Fundamental Liberties of the People of England revised, that he
 in these Books publish, that the said Government is Tyrantical, usurped and unlawful; and that the Commons in Parliament assembled, are
 the Supreme Authority of this Nation; he founds further indicted,
 that he as a false Traytor did Maliciously, Advisedly and Traytorefully Plot,
 and Contrive, to raise Force against the present Government, and for the
 overthor and Alteration of it, and for the fulfilling of his said Malicious
 and Traytoreous Designes, he did in and by the said Traytoreous Books, Falsly,
 maliciously and advisedly, utter and declare several most false and Scandalous,
 Malicious and Traytoreous Words and Writings, that in the Indict-
 ment are particularly named and expressed. And thirdly, that as a Tray-
 tor being an Officer, or a Soldier, or a Member of the Army under
 Command of the now Lord General Fairfax, he did most Maliciously,
 and Traytoreously endeavour, to withdraw certain Soldiers of that Army
 from their Obedience to their Superior Officers, which are particularly
 named in the Indictment, and that for the full accomplishment of his
 malice and Endeavours, he did Maliciously, Advisedly and Traytore-
 fully publish, and deliver the poisionous Book, called an Impeachment,
 in particular directed by the Title of the Book, to all the People of
 England, being for that End published by him to publick View; in which
 are contained, most Falsly and Scandalous, Malicious, Malignant and
 impious Expressions as in the Indictment are set forth; and further
 in the said Book which he called an Impeachment, that the present
 Government is Tyrantical and Usurped, and that the Commons of England
 in Parliament assembled, are not the Supreme Authority. And he fur-
 ther founds Indicted, and the Jury further finds, and presents, that all
 these and other Expressions written by him, and published by him in writ-
 ten Papers and Printed Books, he hath Falsly, Maliciously and Traytorefully
 laid up strife on purpose, and to the intent, to stir up and raise Force
 against the present Government, settled in the way of a Common-wealth
 free State, without King and Lords, as purpose, to subvert and
 destroy. And further, he hath also most Traytoreously endeavoured to make
 the private Soldiers from their Obedience and Subjection to their Super-
 ior Officers; and all this in manifest Contempt of the Law of this
 Nation deathly, in that behalf made and provided, and to the hazard
 of overthrow, and utter Subversion of the said Government.
 This Indictment the Gentleman hath pleaded not Guilty, and hath
 pur-

put himself upon his Country, and if we can prove this against his Plea, it is at an Issue.

Lieu. Col. Lilburn. I deny that, Sir, I never pleaded any such thing. Pleas not Guilty, and you, Gentlemen of the Jury, I beseech you to take Notice he extreamly wrongs me in saying so, for my Plea was a conditional Plea, as a Plea so large.

Mr. Attorney. My Lord, and you, Gentlemen of the Jury, You have heard the Indictment read unto you, and you have heard it opened unto you, and you have heard what Mr. Lilburn says, that he did not plead not Guilty, and I hope he is ashamed of his Plea, now he hears the Indictment opened unto him. My Lord, in this Indictment there is contained these severall Grand Transasons.

The first is, that he hath Advisedly, Trayterously, and Maliciously published, that the Government that is now established by way of a free State or Common-wealth, without either King or House of Lords, is Tyrannical, Usurped and Unlawful; and further, that the present Parliament, now now assembled, are not the Supreme Authority of the Nation.

The second is this, that he hath Plotted, Contrived and Endeavoured to stir up, and raise Forces against the present Government, and for the Subversion and Alteration of the same.

The third is this, that relates to the Army, you have heard what his Expressions have been, and they have been read unto you, concerning them and the rest, that he, not being an Officer or Soldier, or Member of the present Army, hath offered to stir up Mutiny in the Army, and to withdraw the Soldiers from their Obedience and Subjection to their Superior Officer, and thereby to stir them up to Mutiny and Discontent.

These are the main parts, and substance of what I intend to charge him with in the Evidence, to prove that which was contained in the Indictment. My Lord, you have heard in what he hath read out of the Indictment, what Expressions they are, those that are Trayterous to Publish, and have been so declared, so judged, so execruted, these are his Mr. Lilburn's engaged true Friends, the Parliament, the Government, the Authority, of both Parliament and Army, they are Tyrants, Usurpers, Mercenaries, Janissaries, Murderers, Traytors, standing by their own Power and Swords, and over ruling all by their Wills, these are the Expressions that he hath used. My Lord, I shall not trouble you with a thing of Aggravation; for my Lord, I do conceive, that the reading of the Books themselves aggravates every thing against him; and I think there is no English-man (as Mr. Lilburn so often styles himself to be) that can say such Words or Acts as those are.

And truly, my Lord, if I had read the Books and not known the Person for, I should not have thought he had been either a Christian, or a Gentleman, or a Civil Man, to have given such base and bitter Language, but my Lord, and you of the Jury, I shall hold you no longer absconced, for the cause being so plain, and the Matter so foul, that it will not admit of much stand in need of any Dispute, and to make it plain and clear to

Judgments, and Conferences, there are Witnesses in the Court, evidently to prove every thing that will stand in need, to be proved for the Defendants.

My Lords, the Works are Maliciously, Advisedly and Trayterously, I shall not speak at Words, but as himself says, what he Prints is of Masure and Deligrate Consideration, and such are his Books in Print; that himself hath either Printed, or caused to be published.

The first that be it Charged withal, is that which is called An Ouary, it hath a very dangerous Title, and is the Direction especially to the Soldiers of the Army, but especially to the private Soldiers of the General's Regiment of Horse, that helped to Plunder the true hearted Englishmen, Trayterously defeated at Burford, so that the Rebels at Burford were Mr. Lilburn's dear Friends. My Lord, it hath not only a dangerous Title, but was published at a dangerous Time; yea and for a dangerous End, which purposeth to stir up the great Mutiny that was in the City of Oxford. My Lord, for the proof of this, we shall offer this, That Mr. Lilburn himself was Mr. Captain Jones's Associate in the publishing that Book; For Mr. Lilburn himself did his Captain Jones brought this Book to the Press, to be Printed, we shall offer unto you where he hath published it to Soldiers of the Army, so as to engage them in a Mutiny, and Discontent against their Superior Officers; therefore in the first Place call Thomas Newcomb.

Thomas Newcomb Sworn.

Just. Jermyn. Before you speak look upon the Prisoner first, whether you know him or not.

Mr. Attorney. My Lord, if you please, he may take the Book in his hand, and see whether he Printed it, and when he Printed it, and who brought it to the Press?

Ques. Mr. Newcomb. I Printed of this Book only the last sheet, not knowing where the former part of it was done, which Book was brought of me by Lieutenant Colonel Lilburn, and Captain Jones, which Captain Jones did agree with me in the price, I was sent in the proceedings in it: where he, that Captain Jones together with Lieutenant Colonel Lilburn did bring it to me, and that Captain Jones did agree with me in the price, but I was taken before I did perfect it, but Captain Jones did indent with me the for the price; but this I must say, Lieutenant Colonel Lilburn came and brought me with the Copy, and afterwards at Night he came again, and had a visit of it, and that he was present when it was Corrected.

Mr. Attorney. And when the first sheet was Printed, then they came I the Night again, and examined the Proof with Captain Jones, and his Cor- be) tor.

Lord Keeble. And he brought the Copy of the whole draught of the Print unto you.

Ques. Col. Lilburn. Sir, by your Favour, if Mr. Prideaux have done any thing to the Witness, I crave my Right by Law to ask him some Questions.

At the first place, I desire he may be asked, whether he was either Reader

of the Original Copy, or the over-looker of the Printed proof? Mr. Newcomb. You had a printed sheet of it, and that was all seen. Lieutenant Col. Lilburn. I desire to know, whether I was either the Reader of that he Printed, or the Looker upon the Written Copy?

Mr. Newcomb. You look'd upon the sheet that was Printed, Captain Jones read the Manuscript.

Lieutenant Col. Lilburn. Ask him the Question thus, whether was I the Corrector of the thing Printed, or the Looker on upon the printed Copy? And whether or no he can swear, That that Printed sheet that he saw had, was Corrected and Revised, and was a true and perfect sheet according to the Original?

Mr. Newcomb. It was a Copy of the sheet before it was Corrected and Revised.

Mr. Attorney. And Mr. Jones did read the Original, and Lieutenant Colonel Lilburn corrected the Copy.

Lieutenant Col. Lilburn. Under Favour, you are mistaken, he says, I call my eye upon the Copy, but doth not in the least say, that I Corrected it; and therefore, Sir, you do abuse me, in going about to make him say more than his own Conscience tells him is truth.

Lord Keeble. While the Examination was, he saith you read the Proof.

Lieutenant Col. Lilburn. Sir, he says no such thing, by your Favour.

Lord Keeble. Mr. Newcomb, was not Mr. Lilburn there the same night, and did he not look upon the Copy?

Mr. Newcomb. That he did, my Lord, but, my Lord, I shall tell the manner of our Trade in this particular, the manner is, that as we have set a Form of the Letter, we make a Proof of it, which Proof we have a Corrector does read, my Corrector he had one being he Corrected it, and Captain Jones look'd upon the Manuscript, and Lieutenant Colonel Lilburn had a Copy of the same sheet uncorrected, but he did not read it, nor read it to the Corrector, there was two pull'd off, the Corrector had one, and Mr. Lilburn had the other, and Captain Jones look'd upon the Manuscript, and read it to the Corrector.

Lieutenant Col. Lilburn. He has declared unto you, That he was in the act of Printing the thing before it was Perfected, I desire to know, whether he was at his House to give any further Directions at all after it was taken.

Mr. Attorney. That's no thanks neither to you nor him.

Lieutenant Col. Lilburn. I pray let him Answer the thing, let me have a fair play above board. Sir, I beseech you let me hold him close to the Question, he saith he was taken before the sheet was perfected, truly I think they are his very words.

Mr. Newcomb. I said in my Examination, that it was a Printed sheet Printed which you had.

Lieutenant Col. Lilburn. I desire again to know this of him, whether before he had printed or perfected that sheet, he had going, he was taken, and both the Forms?

Lord Keeble. Mr. Lilburn, you must desire to ask him the Question, and not you to demand it of him your self.

Mr. Lilburn. I shall, Sir.

Mr. Newcomb. It was before the Forms were taken.

Lieut. Col. Lilburn. I ask you, whether before the things were compleat and perfect, your Forms were not both taken, and your Person seized upon?

Mr. Newcomb. There were only some few Copies printed, and then I was seized upon, and the Forms taken away before I had perusall ther first; but this I say, he did not intend with me for the prints, neither had I the Copy from Mr. Lilburn's hands, but from Captain Jones his hands.

Just. Jermyn. You say that he had one Proof, and Jones another, when was this you speak of? give us the time as near as you can.

Mr. Newcomb. I cannot say justly the time, but as I remember, it was about seven or eight Weeks since.

Mr. Attorney. Stand you aside, and call John Took, John Skinner, Thomas Lewis, John Hawking and John Merriman, Witnesses Sworn.

Mr. Attorney. John Took, Do you declare now your knowledge. That which I call him self, is to this purpose, that Mr. Took being a Soldier of the Army, one of them mentioned in the Indictment, Mr. Lilburn delivered him one of the Out-Cries, on purpose to draw him from his Obedience to his Superior Officers.

Lord Keeble. Shew him the Book.

Mr. Took. I have seen the Book, but I had not the Book in my hand since.

Mr. Attorney. Tell what you know, that's all we ask you.

Mr. Took. About seven Weeks ago, being at Dinner with Thomas Lewis and John Smith, all Soldiers, after Dinner we met with Lieutenant General Lilburn in Toy-lane, and Thomas Lewis knowing of him, took care to acquaint him of him.

Just. Jermyn. All Soldiers under my Lord General Fairfax?

Mr. Took. Yes, Sir.

Just. Jermyn. Go on.

Mr. Took. Mr. Lilburn asked me to go and drink a Cup of Beer, we did, and so when we went in, he asked, whether we had seen such a Book the Apprentices Out-Cry? And, Mr. Lewis answered, that he had it in a Man's hand, then Lieutenant Colonel Lilburn, said, he had it in his Pocket that was given him, and if he pleased to accept of it, he would give it him; so told him he had thought to buy one of them; he heard they were sold in the City, but he would accept of his; So Lilburn delivered it to Mr. Lewis.

Mr. Attorney. What did Master Lilburn say further unto you?

Mr. Took. He said, that you Soldiers keep in all in Slavery.

Lieut. Col. Lilburn. I beseech you, let me ask him one Question.

Mr. Took. There was some to be sold, but I forgot the Place.

Mr.

Mr. Attorney. Did he name a Place and Person to you where you might have some of them?

Mr. Took. He did name a Place, but I have forgot it, where there were more Books to be sold.

Lieut. Col. Lilburn. Sir, I beseech you, let me ask you one Question.

Lord Keeble. Mr. Lilburn, for your Direction you must make your Question to me, and require us to ask him the Question, and then if your Question be fair it shall not be denied you.

Lieut. Col. Lilburn. Then thus: Whatsoever this Gentleman says of meeting him in Toy-lane, and desiring him to go to drink with me, yet desire you to ask him whether I did take Notice or Cognizance of any of them first, or whether they did speak to me before, before ever I said any thing unto them.

Lord Keeble. To what End do you ask this?

Lieut. Col. Lilburn. Because in your Indictment I am Charged, that went among the Soldiers to seduce them from their Obedience to the Superior Officers, when I have made it my Endeavour to shun them as much as I can, and not to come nigh the place where I know they are, if I can avoid it; no although I meet with them, not to Discourse with any of them, unless they begin first.

Lord Keeble. I tell you this which may direct you afterwards, whether ever began to Discourse first, if you did give them the Book afterwards, it is all one.

Lieut. Col. Lilburn. But shall please you I am upon my Life, and by Law I ought not to be denied, to ask the Witnesses that swear against me any Question that I please, that I my self judge pertinent for my Advantage.

Mr. Attorney. Call Thomas Lewis.

Thomas Lewis. And it shall please you, I am upon my Oath to speak the Truth, and I shall desire by the Help of God so to do, and no more. One Day, which I conceive to my Remembrance, was the 6th day of September last, we being upon Guard at Paul's, went to an House to refresh our selves and when I came forth, I met with Lieutenant Colonel John Lilburn, whom I had formerly known, and sometimes visited in his Imprisonment, and whom I was very glad to see, having a little before heard through some sudden Accident or Misfortune had befall'n him, and I did ask of him how he did, he said unto me he was well; and so with that says he, what are you upon the Guard, to my best Remembrance this was his Expression, yet see whether it was he, or another that said it, as I take it. These were his Words, says he, I have almost forgotten you: Sir I was known to you formerly, having some times been with you in the Tower; says he, will you go drink? if you please we will; and so upon that we went to a place called the Red Crows in Newgate-market: there we sitting down to drink, having not much Discourse for the present, we sitting still, he asked me at length, have you heard of a Bill of

called the Out-Cry of the Apprentices? Sir, said I, I have heard of it, and have a longing desire to buy one of them to read it, and my reason why I so said, was, because I did understand it was to be sold at the Exchange, where I intended to go to get one of them. Says he, I had one given to me, and if you will, I will give it unto you, so I received the Book with thankfulness, and farther expressing, which was something mean, this would save me a Penny in buying of it. And I further entreated him, if he could direct me, where I might buy some more of them: I have a friend, says he, in such a place, if you would go to him, and tell him that I am here, I should think my self beholding to you; Now the Place's Name was Martin's-lane, but the Man's Name whither I went, I have forgot, and the Man too, I never heard of the Man before nor since, so I told Mr. Lilburn. Now, he said to me, Peradventure when you find that Man, you may have some more of the Books; now these were the Words to my best Remembrance and Knowledge, as I desire to speak with a pure Conscience.

Mr. Attorney. Mr. Lilburn gave you one of those Books?

Mr. Lewis. Yes, Sir, and I put it into my Pocket, and when I had done, Mr. _____ and you desired I should deliver him, I will deliver him.

Whether there was any Books or Passages betwixt them; and upon which he told him, yes, There is a Book that Mr. Lewis has, that has such a Title.

Mr. Attorney. What did you with the Book?

Mr. Lewis. I delivered it to the Lieutenant.

Mr. Attorney. The same Book that you received from Mr. Lilburn, you delivered to the Lieutenant.

Mr. Attorney. What did Lieutenant Colonel Lilburn say to you concerning your Pay, did not he ask you, &c.

Lieut. Col. Lilburn. I pray, Sir, do not direct him what to say, but leave him to his own Conscience and Memory, and make him not for fear to swear more than his own Conscience freely tells him is true.

Mr. Lewis. The Discourse was thus; says he, you Soldiers (to my best Remembrance) are the Men that keep us all in Slavery; now what to conceive of that Expression I must leave that unto you: And as concerning our Pay, he asked us, how is your Pay? these were the Words, or to that effect, but there was Money come for us, and ready to be delivered out unto us.

Mr. Attorney. Call John Skinner, he was one of those that was in Company, and can speak to it.

Mr. Skinner. To my best Remembrance, and it shall please you, 'twas the beginning of September, I cannot justly tell what day, that I met with Mr. Lilburn in Ivy-lane, near unto Paul's, and meeting with him, I was going towards the Guard, and so was Mr. Lewis with me, being walking forth of the Lane, having been refreshing our selves; and near the end of the Lane, we met Lieutenant Colonel Lilburn, which Lieutenant Colonel,

Level, Mr. Lewis very well knew, and knowing of him, asked him how he did, and how it went with him, in regard he had heard before he was in Prison; and so I did not take any heed what he said further. Whether do I know whether Mr. Lewis asked Mr. Lilburn to go with him to drink, or Mr. Lilburn asked him; but to the Red Cross in Newgate Market we went to drink, and Mr. Lilburn did ask Mr. Lewis whether no he had seen the Book which was called the Apprentices Out-Cry; Mr. Lewis answered him that he had not seen the Book (as I remember) but he had heard of that Book that it was forth, and he did intend to buy one of them in regard they were publicly sold abroad; says Mr. Lilburn, have such a Book in my Pocket, which was given me even now, and will give it you if you will.

Lieut. Col. Lilb. I pray let me hear two or three Lines before,

Mr. Skinner. Whereupon you answered, and said, I have the Book in my Pocket, and it was given me, and I will give it you, and Mr. Lewis received it, and that was all, and presently I went away.

Mr. Attorney. You hear, Gentlemen of the Jury, that it is the same Book that he received from the hands of Lieutenant Colonel John Lilburn.

Lieut. Col. Lilburn. My Lord, I beseech you hear me before the Witnesses go, and he that was Sworn before, I desire to ask him this Question, whether or no that this is the very Book that is mentioned in the Indictment, and whether or no they have examined the Words of it with the Indictment?

Mr. Prideaux. You need not, that shall be proved presently.

Mr. Attorney. That Book which Mr. Lilburn gave you, what did you with it, Mr. Skinner: It was delivered unto my Lieutenant, who stands there.

Lieutenant. It was delivered unto my Captain upon the Guard.

Captain Meriman Took the Book in his hand, and said, this individual Book, signed in several places by me, I delivered to Mr. Frost, Secretary to the Council of State, and Mr. Frost caused me to sign it in several places, whereby it could not be mistaken, and that is the very individual Book.

Mr. Attorney. My Lords, and you, Gentlemen of the Jury, we have thus far gone in the Evidence, that Mr. Lilburn brought the last Sheet of it to the Press, the first time he came with Captain Jones, and he came the second time with him to examine it, that is, he had a printed Copy that was then printing, to be printed, and was the Corrector for the Press, reading the Original Copy: so far he is privy to the printing of the Book. In the next place three Witnesses, (Soldiers of the Army) swear, he gave them one of those Books, and one of them gave it to his Lieutenant, and the Lieutenant to the Captain, and the Captain swears this individual Book is that which Master Lilburn gave into the hands of Mr. Lewis; what can be more plain than this, I pray you, Judge; for here is plain Testimony of Mr. Lilburn delivering this Out-Cry to the three Soldiers, and one of them to his Lieutenant, and his Lieutenant

Captain, and his Captain to Mr. Frost, with marks upon it, so this is consequence proved unto you, this is the individual Book, that Mr. Lilburn, Prisoner at the Bar gave to the three Soldiers, and which is to make use of, when you have Occasion upon the Evidence, to read it as it is in the Court with you.

Lieut. Col. Lilburn. By your Favours, I have had no Answer to the question that I humbly craved an Answer to, which is, whether the Soldiers are positively able to swear, that this is the individual Book which they say they had from my hands, and whether they are able to swear that this individual Book is a true and exact Copy without Addition or Subtraction of that Original Manuscript that the Printer said Captain was delivered to his hands, which he saith I had an uncorrected sheet of.

Mr. Attorney. We shall clear that to you, when we come to make use of it.

Lieut. Col. Lilburn. I beseech you, Gentlemen of the Jury, to take notice of my Question, and what I am denied.

Mr. Prideaux. The next thing that is charged upon him, is a Paper written, and intituled, A Salvo & Libertate, my Lord shall open the same to you being directed (my Lord) for the Prosecution of Mr. Lilburn: and having things of very high Concernment that are charged against him, I did by word of Mouth send to have him come to me, which he understood he did decline, because he had no Warrant; The Lieutenant of the Tower was pleased to acquaint me with it, and I thereupon directed my Warrant to the Lieutenant to bring him before me: and Mr. Lilburn, &c.

Lieut. Col. Lilburn. My * Lord, and please your Honours, thus, if it be upon Matter of Fact, let us come to it, let us have no Introductory speech to reach the Witnesses what to say, beyond what their own Consciences dictate unto them.

Mr. Attorney. I shall go no further in it, let the Lieutenant of the Tower speak himself.

The Lieutenant of the Tower Sworn.

Mr. Attorney. Lieutenant of the Tower, you are questioned about the paper Libertate that Mr. Lilburn delivered unto you, have you the Original?

Lieutenant of the Tower. Yes, Sir, I have.

Mr. Attorney. How come you by it?

Lieutenant of the Tower. I shall be short in what I say, because I will not trouble the Court.

Col. Lilburn. Let me hear you then.

Lieutenant of the Tower. Being abroad, there was a Message left with

This was the first or second time that Mr. Lilburn's Tongue slipped in telling him Lord.

my Servants, that I should bring up Lieutenant Colonel Lilburn to Mr. Attorney's Chamber in the Temple, and when I came in, I had Notice it ; I did then send to Lieutenant Colonel John Lilburn, to let him know what Command I had received from the Attorney General, the next day to carry up Lieutenant Colonel John Lilburn to the Attorney General's Chamber : But Lieutenant Colonel Lilburn not well understanding what I had a written Warrant or no ; but before he came at home he called himself, and came back, and desired the sight of my Warrant, told you before I had no Warrant, but by word of Mouth ; why say so, do you think I will go upon a verbal Warrant ? saith he, I will not unless you force me, but the next day Mr. Attorney General was quainted that he refused to come without a Warrant. When the Warrant was made, I met with Lieutenant Colonel Lilburn about ten of the Clock in the Tower, who intreated me to let him see it. I shewed it him, he said, he desired a Copy of it, takes it ; which when he had, he went from me and about two hours after he came to me about one of the Clock, and said, I pray receive this from me, sir, says he, I do intend not to own Authority and Power of that Gentleman that sends me the Warrant whereupon I told him I would shew this same to the Attorney General, why, says he, I give you it to that purpose.

When the same came, Lieutenant Colonel Lilburn did go along with me in an orderly civil Way : I had no Body but my Man, for I told him I will take no Body but my Man, if you will engage your self to me that will return peaceably, which he did, and so we went very orderly to Mr. Attorney's Chamber, which is all for that I can say.

Mr. Attorney. If you please that the Lieutenant may, upon his Oath declare whether that be the true Original he had from Mr. Lilburn's hands or no ?

Lieut. of the Tower. It was never out of my Custody since he gave it me.

Lord Keeble. Mr. Lilburn, you do acknowledge it to be your hand-writing : Shew it him.

Lieut. Col. Lilburn. Sir, I am too old with such simple Gins to catch'd, I will cast mine eyes upon none of your Papers, neither Oath I Answer to say Questions that concerns my self, I have learned the Law out of the Petition of Right, and Christ's Pleading before Pilgrims than so.

Mr. Attorney. Would you had learned more Gospel.

Justice Jermyn. You may Answer a Question whether it be true, false, and confess, and glorifie God.

Lieut. Col. Lilburn. I have said, Sir, prove it, I am not to be caught with such Rooteries.

Lord Keeble. You see the Man, and the Quality of the Man, this is the Paper that he delivered into his own hand, and that is sufficient, well as if it was of his own hand-writing.

Lieut. Col. Lilburn. Good Sir, your verbal Bench-law is far shewer your written Text in your own Law-books,

Judge Jermyn. Put it into the Court.

Lord Keeble. Your Writing or not Writing is nothing, you delivered Book.

Lieut. Col. Lilburn. Sir, I desire to know in what Place, whereabouts the Tower of London, the Lieutenant of the Tower, saith he, received Paper.

Lord Keeble. Let him name the Place where it was delivered.

Lieut. of the Tower. The Place was at the steps, at the bottom of narrow passage at my Garden end, in the Court way where the carriage comes up.

Lieut. Col. Lilburn. Whether is that Place in the Liberties of London, or is it part of the County of Middlesex.

Lieut. of the Tower. The Tower is in London some part of it, and one part in Middlesex; but unto which Place that part of the Tower belongs, I am not able certainly to say, but it hath commonly been reputed Middlesex.

Mr. Attorney. My Lord, you may see the Valiantness of this Chamber for the Peoples Liberties, that will not own his own hand although we desire you, Gentlemen of the Jury, to observe, that Mr. Lilburne apliceately confesseth it.

Lieut. Col. Lilburn. Sir, I deny nothing: and what now can be proved mine, I have a Life to lay down for the justification of it, but prove first.

Mr. Attorney. My Lord, the next thing to prove the Charge against me is a very high One, it is styled Master Lilburne's, and his Name is in it. It is intituled, An Impeachment of High Treason against Oliver Cromwel, and his Son-in-Law, Henry Ireton, Esquires, late Members of the late forcibly dissolved House of Commons, presented to publick View by Lieutenant Colonel John Lilburn, close Prisoner in the Tower of London: My Lord, I doubt he will not own it, but yet, my Lord, he may be led the Question.

Lieut. Col. Lilburn. I shall deny nothing I do: And yet I have read the Petition of Right, Sir, that teacheth me to Answer to no Questions against, or concerning my self, and I have read of the same to be practised by Christ and his Apostles.

Mr. Attorney. You will not own it, the Book you have read?

Lieut. Col. Lilburn. You may make your Advantage of it.

Mr. Attorney. We shall prove it, call

Witnesses. Thomas Daffern, Richard Lander, Marshal, Major, Wksworth, Gouvernor of Warwick-Castle, all Sworn.

Mr. Attorney. Mr. Daffern, if you please, he may be asked where he

But it is sure that Place is in Middlesex, as was resolved in Sir Thomas Overhuries Case, see Cook's 3d. Part. Inst. fol. 130. Chap. I. Argument.

met Mr. Lilburn, the time when, what Book was given him, and what purpose it was given him.

Mr. Daffern. Why, it was upon the 12th of August last, having been in Southwark, I met with Lieutenant Colonel Lilburn upon the Bridge, I went back with him to his House at Winchester-house in Southwark, he had leave to visit his Family at that time, being very ill, and I told him I was going into Warwick-shire the next day: and before going heard that Colonel Ayres was then removed from Oxford to Warwick-Castle, he gave me a Book to carry to him, and I delivered it to him at Warwick-Castle.

Mr. Attorney. The Book that he gave you, you gave to the Governor, did you see any more of them.

Mr. Daffern. I never saw any of them but that, which was both the first and the last I have seen of them.

Mr. Attorney. Lander the Marshal was present at that time, was not he?

Mr. Lander. That I was, and I had it from him, and I delivered it to Major Hawksworth the Governor.

Mr. Attorney. Major Hawksworth, what did you do with the Book?

Major Hawksworth. I sent it to Colonel Purfrey, in a Paper seal with three or four Seals.

Mr. Attorney. Call Colonel Purfrey: Colonel Purfrey Sworn.

Lieut. Col. Lilburn. I hear not one Word; under Favour but a Word, I crave but one Word, I have an Exception. First, Colonel Purfrey is one of those that call themselves the Keepers of the Liberties of ENGLAND, and for committing Crimes against them I am indicted, and he is one of them, and therefore a Party, and in that respect, in Law he can be no Witness against me; it would have been very hard for the King to have been a Witness against that Man that was indicted for committing Crimes against him; such a thing in all his Regime was never known.

Col. Purfrey. I received this Book, sealed in a Letter from the Governor of Warwick-Castle, Major Hawksworth, I know his Hand, I know the day he sent me this very individual Book, and my hand is as the Governor who sent it up to me, which I declare to be the very individual Book that I received from him.

Mr. Attorney. Mr. Lilburn, you are mistaken, Colonel Purfrey is a Member of Parliament, he is none of the Keepers of the Liberties of England; but why will you put us to all this Trouble, to prove your Book, seeing your hand is to them; my Lord, I had thought the great Champion of England would not be ashamed to own his own hand.

Lieut. Col. Lilburn. I have answered once for all, I am upon Christ's Terms, when Pilate asked him whether he was the Son of God, and judged him to tell him whether he was or no; he replied, thou sayest so say I, thou Mr. Prideous sayest it, they are my Books; but prove and when that is done, I have a Life to lay down to justify whatsoever be proved mine.

Judge Jermyn. But Christ, said afterwards, I am the Son of God, unfeigned, Mr. Lilburn, and give glory to God.

Lieut. Col. Lilburn. I thank you, Sir, for your good Law, but I can reach my self better.

Mr. Attor. Here Mr. Lilburn makes a Book which was given to the hands of Mr. Daffern, by Mr. Lilburn himself. Mr. Daffern he swears that the same Book he gave to Colonel Ayres; Mr. Lander the Marshal of the Garrison of Warwick, swears that the same Book Daffern gave to Colonel Ayres, he had from him, and gave to Major Hawksworth the Governor; the Governor swears that that Book he received from the Marshal, he sent sealed up in a Letter to Mr. Purfrey, who also swears that that same Book he set his hand to it to know it again by, and that the individual Book that is now given into your hands, is the same Book that was delivered to him; The Title is an Impeachment of high Treason against Oliver Cromwel, Esq;

Lieut. Col. Lilburn. Sir, I wonder you are not ashamed so far to press the Testimony beyond that they themselves swear, Mr. Daffern doth not name the Book at all that was given to him, neither doth he swear it to be mine, and therefore, Sir, you abuse your self, the Court, the Witnesses, and me too.

Mr. Attorney. Major Lilburn, I have done you Right in it, and no wrong at all; for Colonel Purfrey doth Name it; The next is a very dangerous Book of his, called A Preparative to the Hue and Cry after Sir Arthur Hasterig. Mr. Lieutenant of the Tower, you are upon your Oath, I pray you speak your knowledge to that.

Lieut. of the Tower. My Lord, it is true, Lieutenant Colonel Lilburn gave me in the Tower such a Book, but I cannot say, whether that be the same Book that he delivered to me, or no, I have such a Book also at home, but I am not able to say that is the very Book he gave me, and whether this be the same Book, I know not.

Mr. Prideaux. Call Mr. Nutleigh and Mr. Radney.

Major Nutleigh Sworn.

Lieut. Col. Lilburn. I pray let the Witnesses stand here, the Jury say they cannot hear them.

Edward Radney called and Sworn.

Lieut. Col. Lilburn. I pray you let me know what these Gentlemen are, I do not know them, neither can I remember at present that ever I saw them before.

Lord Keeble. You see they look like Men of Quality.

Mr. Prideaux. They are my Servants, Mr. Lilburn.

Mr. Nutleigh. My Lord, and* please your Lordship, the 14th of Sept.

* But Mr. Lilburn hath been heard to profess, he see not those Gentlemen in the Chamber that he discoursed with Mr. Prideaux in, although he looked divers times about him.

Left, the Prisoner at the Bar, Lieutenant Colonel John Lilburn, being before Mr. Attorney General: And I bring by in the Chamber, I did see him deliver this Book to Master Attorney General, this specifical Book, and he did own it, and called him self the Author of it, save only the Errata of the Printer.

Lient. Col. Lilburn. The last Clause, I beseech you, Sir, the Jury desires to hear the last Clause.

Mr. Nutleigh. My Lord +, he said he was the Author of that Book, the E R R A T A of the P R I N T E R excepted.

Lient. Col. Lilb. Let him be asked this Question, whether in that Expression, saving the Errata of the Printer, there did not follow these words, which are many: I desire to know whether there were not such words or no.

Mr. Radney. I was present, my Lord, when the Prisoner at the Bar presented this Book to Mr. Attorney, and owned it, saving the Errata of the Printer.

Lient. Col. Lilburn. Were there no more words.

Mr. Radney. Not to my Remembrance, and so said they both.

Lient. of the Tower. My Lord, I was present at the same time, when Lieutenant Colonel Lilburn did present a Book to Master Attorney General, with such a Title as this: And truly if I be not much mistaken, there was used by him these Words, which are many: Thus it was in the whole; Says he, here is a book which is mine, which I will own, the Errata of Errors of the Printer excepted, which are many, if I mistake not very much, those are the very Words Master Lilburn said.

*Mr. Attorney. My Lords, and you, Gentlemen of the Jury, you see that here are three Witnesses, and they do all agree, and they do all agree in this, that Master Lilburn the Prisoner at the Bar did deliver this Book to me, owning it as his * own, the Errors or Errata of the Printer only excepted: And as for that Clause which are many, only the Lieutenant of the Tower swears to that singly, and therefore I desire it may remain in Court, as that individual Book that they see Master Lilburn give me. But, my Lord, there is another Book in the Indictment, intituled, The Legal Fundamental Liberties of the People of E N G L A N D, revised and asserted: Or, An Epistle written the eighth of June, 1649, by Lieutenant Colonel JOHN L I L B U R N, to Mr. WILLIAM L E N T H A L L, Speaker to the remainder of those few Knights, Citizens, and Burghers, that Colonel T H O M A S P R I D E at his late Purge thought convenient to leave sitting at Westminster. My Lords, for this Book it*

+ That is an errant lye; for divers that heard the Words, aver them to be thus: It is my Book, and I will own it, and so it might be, although he had bought it.

** So is an Ox, a Man buys with his Money, it is his own, and so is a Gold Ring he finds, after he hath found it, it is his own, and yet it doth not follow, that the owner either begot the Ox, or made the Gold Ring.*

owns Master Lilburn, if he will own it, it hath his Name to it, but I have my Lesson from him: My Lord, he will own nothing, he will publish enough, but, my Lord, he will not own it when he comes to be questioned for it; that is not the true Principle of a true Christian, nor an Englishman, nor a Gentleman.

Lieut. Col. Lilburn. I deny nothing, by your Favour.

Mr. Attorney. And confess as little: My Lord, for this you have the Books in Proof before you: The Preparative to the Hue and Cry, and the Salva Libertate owns these very individual Books; for the Preparative to the Hue and Cry in the Marginal Note, as the second page, owns and avows this Book, called The Legal Fundamental, &c. to be Master Lilburn's: And Master Lilburn himself did own the Preparative to the Hue and Cry before three Witnesses to be his; and therefore the Salva Libertate, Mr. Lieutenant of the Tower hath Sworn that he received it from his own hands.

My Lords, as for this Book, the Salva, which he does not acknowledge, We shall read the Words in the Indictment, although it had been as ingenuous for Master Lilburn to have confess it, as for us to have proved it, and for the Proof of it read the Title.

Clerk. The Title read.

A Preparative to an Hue and Cry after Sir Arthur Hesling a late Member of the forceably dissolved House of Commons, and now the present Wicked, Bloody, and Tyrannical Governour of Newcastle upon Tyne.

Mr. Prideaux. Read the Marginal Note in page 2.

Clerk. Page 2. in the Margent.

That those Men that now sit at Westminster are no Parliament, either upon the Principles of Law and Reason; see my Argument or Reasons, therefore in my second Edition of my Book of the 8th of June, 1649. Instituted, The Legal Fundamental Liberties of the People of ENGLAND, revived and asserted, pag. 48. 49. to 63.

Mr. Attorney. This Book hath Mr. Lilburn's Name to it, and here in this his Hue and Cry he owns it, and the third page in the margin hath it again.

Clerk. Page 3. Peruse carefully I entreat you, the Quotations in the 6. and 8. pages of my forementioned Impeachment of High Treason against Cromwell. As also the 12. and 15. pages of the second Edition of my forementioned Book, dated the eighth of June, 1649. Instituted, The Legal Fundamental Liberties, &c.

Mr. Attorney. Read the fourth in the Body of the Book.

Clerk. Page 4. At which Tryal by Strength of Arguments, I forced the Judges openly to confess, that Generals were nothing, in Law, see also the second Edition of my Book of the eighth of June, 1649. Instituted, The Legal Fundamental Liberties of the People of England, revived, asserted, and vindicated, page 49.

Lieut. Col. Lilburn. Let him speak whether it be 29. or 49.

Clerk. Forty nine (but there is not so many pages in the Books.)

Mr.

I AM Attorney. My Lord, here is a Salva Libertate, which is his own Book, though he will not own it.

My Lord, I had thought the great Champion of England for the People's Liberties, would have been so unworthy as not to have owned his own book; but read in the 24. page of the Salva in his own written-hand.

Clerk. Page 24. I have by almost eight Years, dear-bought experience

to be too strong for me to grapple with, and the only brought in by ^{danger to my Apprehension} that all this while kept me hand and ^{from my own} and is the Margaret the Sixth, &c also the shoulder. ^{Second Edition} of my forementioned Book, intituled, The Legal Fundamental Liberties of England, revived, &c.

Mr. Attorney. Now, my Lord, there is the Salva Libertate that was given from his own hand that owns it; I mean his Book, called The Legal Fundamental Liberties, &c.

Mr. Attorney. Read the Title of it.

Clerk. A Salva Libertate sent to Colonel Francis West, Lieutenant of the Tower of London, on Friday the fourteenth of September, 1649. by Lieutenant Colonel John Lilburn.

Mr. Prideaux. Read where it is marked.

Clerk. But if you would produce unto me a written Warrant which hath some more force of Legal Magistracy in it, than verbal Commands, and according to my Rights and Privilege let me read it, I would go with you either by Land or Water, as you please, because I was in no Capacity to resist you, although I then told you I judged a Paper-Warrant (although in Words never so formal) coming from any pretended Power, or Authority in England now visible, to be altogether illegal, because the intruding General, Fairfax, and his Forces, had broke and annihilated all the Formal and Legal Magistracy of England; yea, the very Parliament it self, and by his Will and Sword (absolute Conquerour like) had most tyrannically created, set up, and imposed upon the free People of this Nation a Junta, or such Power sitting at Westminster, whom he and his Associates call a Parliament, who like so many armed Thieves and Robbers upon the high Way, assume a Power by their own Will, most Tray-zerously to do what they like.

Mr. Attorney. That's not the Place, look towards the latter End.

Clerk. Then here it is; sure I cannot abuse but acquaint you that I have long since drawn and published my Plea against the present Power, in my second Edition of my Book of the 8th of June, 1649. intituled, The Legal Fundamental Liberties of the People of England, revived, asserted, and vindicated, which you may in an official manner, read in the 43, 44, 45. to the 49. pag. which by the strength of the Lord God Omnipotent, my large experienced help in time of need, I will sent with the last Drop of my Blood.

Mr. Attorney. My Lord, for the Book, called The Legal Fundamental Liberties of England, his Name is to the Book; but I shall not put

much

much weight upon them; but in others of his Books, as in his Preparative to an Hue and Cry, which he owns, and which is proved he owns by three Witnesses, In several places of that Book he speaks thus of his Book, viz. The Legal Fundamental Liberties of England, revived, &c. He calls it mine, and his forementioned Book: and in his Salva Libertate, he owns it again, gives to the very date, and the very Title that is in this Book: my Lords, we have done with this. My Lords, now I shall go on to make use of it, and to show, my Lord, out of these Books, his Words and Language, to make good the Charge that hath been read in the Indictment against Mr. Lilburn. My Lords, if you please for that I shall begin first, in reading to the Jury the very Act it self, which makes the Fact to be Treason.

My Lord, for that, here is the Act, that doth declare the Commonwealth for the Future to become hereafter a free State, and the other declaring that Fact to be Treason, that shall say it is Tyrannical or Unlawful, these are general Acts which need not be proved, but if the Prisoner does desire it, we shall prove it.

Clark. The 24. of May, 1649. Ordered by the Commons assembled in Parliament.

Lieut. Col. Lilburn. Hold, Sir, prove your Act first, whether it be an Act of Parliament.

Mr. Attorney. My Lords, I shall not struggle with Mr. Lilburn in plain Terms; but I thought when Acts were published, the Courts of Justice were bound in duty to take Notice of them; but if it be so he will have it proved, we will, although it be but a slender Cause, for this is one of the published Copies.

Lieut. Col. Lilburn. But under your Favour, Mr. Pridesaux, as there may be counterfeit Money (which we see there is every day) so there may be counterfeit Statutes too, and this may be one for any thing I know; therefore I desire it may be proved to be a true Statute or Act of Parliament.

Mr. Nutleigh. This is a true Copy of the Act of Parliament, which I examined with the Record.

Lieut. Col. Lilburn. The Record, where is that to be found?

Mr. Nutleigh. At Westminster, with the Clerk of the Parliament.

Lieut. Col. Lilburn. Is this Gentleman able to depose it to be a true Law in all the parts of it; for by the Laws of England, the People are not to take any Notice of Acts made, but by a Parliament: neither are they to take Notice of those Acts that are not proclaimed: Sir, I beseech you let me know where the Record and Rolls are, and where he examined this, and whether he is able to swear whether they have been proclaimed in every Hundred and Market-town, according to the Old, and not yet repealed Law of England.

Lord Keeble. As Westminster, he tells you.

Lieut. Col. Lilburn. I beseech you where, at Westminster.

Lord Keeble. The Clerks of the Parliament are known to the City of London here, you know it well enough.

Lieut.

Light Col. Etiburn. That is no Answer to my Questions, I pray let me have fair play; for it is a Question to me whether the Books of the Clerk of the House of Commons be a Record in Law or no.

Lord Keeble. Read, Clerk.

Clerk. *An Act of the 14. of May, 1649, Declaring what Offences shall be adjudged Treason.*

Wheras the Parliament hath abolished the Kingly Office in ENGLAND and IRELAND, and in the Dominions and Territories thereunto belonging, and hath resolved and declared that the People shall for the Future be Governed by its own Representatives, or National Meetings in Council, chosen and intrusted by them for that purpose; hath settled that Government in the Way of a Common-wealth and free State, without KING or House of LORDS. Be it therefore enacted by this present Parliament, and by the Authority of the same, that if any Person shall Maliciously, or Advisedly Publish, by Writing, Printing, or openly Declaring, That the said Government is Tyrannical, Unsurped, or Unlawful; Or that the Commons in PARLIAMENT assembled are not the Supreme Authority of this Nation, or shall Plot, Contrive, or Endeavour to stir up, or raise Force against the present Government, or for the Subversion or Alteration of the same, and shall declare the same by any open Deed; That then every such Offence shall be taken, deemed, and adjudged by the Authority of this present PARLIAMENT to be High Treason. And whereas the Keepers of the Liberty of ENGLAND, and the Council of State constituted, and to be from time to time constituted by Authority of PARLIAMENT, are to be under the said Representatives in PARLIAMENT, intrusted for the Maintenance of the said Government, with several Powers and Authorities limited, given, and appointed unto them by the PARLIAMENT. Be it likewise enacted by the Authority aforesaid, that if any Person shall Maliciously and Advisedly, Plot, or Endeavour the Subversion of the said Keepers of the Liberty of ENGLAND, or the Council of State, and the same shall declare by any open Deed, or shall move any Person or Persons for the doing thereof, or stir up the People to rise against them, or either of them there, or either of their Authorities, that then every such Offence and Offences shall be taken, deemed, and declared to be High Treason.

An whereas the PARLIAMENT for their Just and Lawful Defence, have raised and levied the Army and Forces under the Command of THOMAS, Lord FAIRFAX, and are at present necessitated by Reason of the manifold Distractions within this Common-wealth, and Invasions.

* And well might he for Mackwel——in his manner of passing of Statutes, in his Preface aforesaid, saith, that the Commons had no Journals at all before Edward the sixtis time.

visions threatened from abroad, to continue the same, which under God
must be the Instrumental Means of preserving the Well-affected People of
this Nation in Peace and Safety. Be it further Enacted by the Authority a-
foreaid, that if any Person, not being an Officer, Soldier, or Member of the
Army, shall Plot, Contrive, or Endeavour to stir up any Mutiny in the
said Army, or withdraw any Soldiers or Officers from their Obedience to
their Superior Officers, or from the present Government as aforesaid,
or shall Procure, Invite, Aid, or Assit any Foreigners or Strangers to
invade England or Ireland; or shall adhere to any Forces raised by the
Enemies of the PARLIAMENT, or Common-wealth, or Keepers
of the Liberties of ENGLAND. Or if any Person shall counterfeit
the Great Seal of England (for the time being) Used and Appointed by
Authority of Parliament : That then every such Offence and Offences,
shall be taken, deemed, and declared by the Authority of this Parlia-
ment, to be High Treason : And every such Person shall suffer Pain of
Death, and also Forfeite unto the Keepers of the Liberty of England, to and
for the Use of the Common-wealth, all and singular his and their Lands,
Tenements and Hereditaments, Goods and Chattels, as in Case of High
Treason, *hath been used by the Laws and Statutes of this Land, to be*
Forfeite and Lost, provided always that no Persons shall be Indicted or
Arraigned for any of the Offences mentioned in this Act, unless such Of-
fenders shall be indicted or Prosecuted for the same within one Year af-
ter the Offence committed.

Mr. Prideaux. Read the other Statute.

Clerk. *Tuesday, 17. July, 1649.*

Ordered by the Commons assembled in Parliament that this Act be forthwith Printed and Published.

An Act declaring what Offences shall be adjudged Treason.

WHereas the Parliament hath abolished the Kingly Office in England and Ireland, and in the Dominions and Territories thereunto belonging, and having Resolved and Declared, that the People shall for the future be Governed by its own Representatives, or National Meetings in Council, Chosen and Entrusted by them for that Purpose, hath settled the Government in the Way of a Commonwealth, and free State, without King or House of Lords; Be it enacted by this present Parliament, and by the Authority of the same, that if any Person shall Maliciously or Advisedly Publish by Writing, Printing, or openly Declaring, that the said Government is Tyrannical, Usurped, or Unlawful, or that the Commons in Parliament assembled are not the Supreme Authority of this Nation, or shall Plot, Contrive or Endeavour

to stir up, or raise Forces against the present Government, or for the Subversion or Alteration of the same, and shall declare the same, by any open Deed, that then every such Offence shall be taken, deemed and adjudged by Authority of this Parliament to be High Treason; and whereas the Keepers of the Liberties of England, and the Council of State, constituted and to be from time to time constituted, by Authority of Parliament, are as before the said Representations in Parliament intrusted for the Maintenance of the said Government with several Powers, and Authorities limited, given and appointed unto them by the Parliament: Be it likewise enacted by the Authority aforesaid that if any Person shall Maliciously, and Advisedly, Plot, or Endeavour, the Subversion of the said Keepers of the Liberties of England, or the Council of State, and the same shall declare by any open Deed, or shall move any Person or Persons for the doing thereof, or stir up the People to rise against them, or either of them, their, or either of their Authorities, that then every such Offence and Offences shall be taken, Deemed and Declared to be High Treason: And whereas the Parliament for their just and Lawful Defence, hath Raised and Lveyed the Army and Forces now under the Command of THOMAS Lord FAIRFAX, and are at present necessitated by Reasons of the manifold Distractions within this Common-wealth, and Invasions threatened from abroad, to continue the same which under God, must be the Instrumental Means of preserving the well affected People of this Nation, in Peace and Safety: Be it further enacted by the Authority aforesaid, that if any Person not being an Officer, Soldier or Member of the Army, shall Plot, Contrive or endeavour to stir up any Mutiny in the said Army, or withdraw any Soldiers or Officers from their Obedience, to their Superior Officers, or from the present Government as aforesaid; Or shall Procure, Invite, Aid or Assist any Foreigners or Strangers to invade England, or Ireland, or shall adhere to any Forces, Raised by the Enemies of the Parliament, or Common-wealth, or Keepers of the Liberty of England: Or if any Person shall counterfeit the Great Seal of England, for the time, being Used and Appointed by Authority of Parliament, that then every such Offence and Offences shall be taken, Deemed and Declared by Authority of this Parliament to be High Treason: And every such Person shall suffer Pains of Death, and also Forfeite unto the Keepers of the Liberty of England, to and for the Use of the Common-wealth all, and singular, his and their Lands, Tenements and Hereditaments, Goods and Chattels, as in Case of High Treason hath been used by the Law and Statutes of this Land, to be Forfeited and Left, provided always, that no Person shall be Indicted and Arraigned, for any the Offences mentioned in this Act, unless such Offences shall be Indicted and Prosecuted for the same within one Year after the Offence committed: And be it further enacted by the Authority aforesaid, that if any Person shall counterfeit the Money of this Common-wealth, or shall bring any False Money into this Land, counterfeit, or other like to the Money of this Common-wealth, knowing the Money to be False, to Merchandise or make Payment

ment in Deceit of the People of this Nation, Or if any Person shall bear after Falsly Forges, and Counterfeite any such kind of Coys of Gold or Silver, as is not the proper Coys of this Common-wealth, and is or shall be current within this Nation, by Consent of the Parliament, or such as shall be by them Authorized thereto; or shall bring from the Parts beyond the Seas into this Common-wealth, or into any the Dominions of the same, any such Falsie and Counterfeite Coys of Money, being current within the same, as is above laid, knowing the same Money to be Falsie and Counterfeite, to the intent to utter or make Payment with the same, within this Common-wealth, by Merchandise or otherwise. Or if any Person shall Impair Diminish, Falsify, Clip, Walk, Round or Kite, Scale or Lighten, for wicked Lucas or Gainesake, any the proper Money or Coys of this Common-wealth, or the Dominions thereof, or of the Money or Coys of any other Realme, altered and Inferred to his Current within this Common-wealth, or the Dominions thereof, then when all, and every such Offender above mentioned, shall be and are hereby Deemed and Adjudged High Treason; and the Offenders shalbe, their Counsellors, Procurers, Aides and Abettors, being convicted according to the Laws of this Nation, of any of the said Offences shall be Deemed and Adjudged Traytors against this Common-wealth: and shall suffer, and have such Pains of Death, and Forfeitures, as in Case of High Treason is Used and Ordained. Provided always and be it enacted by the Authority aforesaid, that this Act touching the Money and Coys aforesaid, or any thing therein contained, nor any atrainer of any Person for the same, shall in any wise exceed or be judged to make any Corruption of Blood, to any the Heir or Heires of any such Offender, or to make the Wifewife any such Offender to Losse or Forfeite her Dower, or retain any Lands, Tenements or Hereditaments, or her Title, Actions or Lases in the same.

Mr. Attorney. My Lords, and you Gentlemen of the Jury, you have heard these Laws read unto you, the Clause that we are to make out in proof against Mr. Lilburn are thise. That if any Person shall Maliciously and advisedly publish by Writing, Printing, or orally Declaring, that the old Government is Tyrantical, Usurped or Unlawful, or that the Comonwealh in Parliament assembled are not the Supreme Authority of this Nation, are Traytors; these we shall joyn together with Mr. Banks. My Lord you are here in Court, and have received the Proofs against him, and we shall now make it out, that he hath done what this Statute fandis out of his own Books that have come from himself, as the Author of them. My Lord, we shall begin with that Charge against him, in declaring the Government Tyrantical, Usurped and Unlawful, and for that end, see his Impeachment of Lieut. Gen. Croone, &c. page 8.

Justice Jermyn. Mr. Lilburn, Dost your Paper of the 17 of May agree with that which was read, or no.

Lieut. Col. Lilburn. No, Sir, I conoscope, Sir, you ask'd me whether this Act I have in my hand do agree with that which was read.

Justice Jermyn. Yes, Sir, I do.

It is read by *Lilburn*.

Mr. Col. Lilburn. It does not, used to sign and to seal on them
Suffice Mury. Then you will make use of it by and by.

Mr. Col. Lilburn. no, I, Sir, I intend so, if you will have me.

Mr. Attorney. My Lord, This first is, that Mr. Lilburn hath declared
the present Government to be Tyrannical, Usurped and Unlawful, and
that in sufficient Verbis, that he hath so declared, in a very high Way, in
the very words, to his Book intituled, *An Impeachment of High Tre-
ason against Oliver Cromwell, and his Son-in-Law, Henry Ireton, &c.*
Read folio. 8. I mean to read of some other, relating to his

Clerk. fol. 6. Yet, and the abfofore keeping up of a perpetual and
everlasting Army, under which the People are absolute and perfect Slaves
and Vassals, alby woful and ungenerable Exploits, they now see, they
perfectly are, which Slavery and absolute Bondage, is like daily to ex-
pect, under the present Tyrannical and Arbitrary, new Erected, Rob-
bing Government.

Mr. Attorney. And so, my Lord, it is here expressed to be a Tyrannical and
Arbitrary Government, which are expressly within the Word of the Law,
for they are a Tyrannical Government. My Lord, we shall not pick him
much from, but you shall see the whole Course of his Book, writing had
born to this Purpose, that goes every far, my Lord, see the Title page of
the last Book.

Clerk. Titlepage. Before a Legal Magistracy, when there shall be
one in England, which now in the least there is not. Mr. Col. Lilburn
Mr. Prideaux. See fol. 1, before you see, before you see, before you see, before
Clerk. Page 1. I have fully both by Law and Reason, undeniably
and unanswerably proved, that the present Juncto坐着 at Westminster
are no Parliament at all in the Earth, either upon the Principles of Law
or Reason; but are a Company of Usurping Tyrants and Destroyers of
your Laws, Liberties, Freedoms and Proprieties, sitting by Virtue of the
Power and Conquest of the Sword.

Mr. Prideaux. Read the Titlepage of the same Book.

Clerk. *An Impeachment of High Treason against Oliver Cromwell
and his Son-in-Law Henry Ireton Esquires. Members of the late fore-
dissolved House of Commons, presented to publick View, by Lieutenant Col-
onel John Lilburne, late Prisoner in the Tower of London, for his real, true
and zealous Affection to the Liberties of his Native Country. In which
following Discourse or Impeachment he engageth, upon his Life, either upon
the Principles of Law (by way of Indictment, the only and alone Legal
Way of all Trials in England) or upon the Principles of Parliament,
Ancient Proceedings, or upon the Principles of Reason, (by Pretence
which alone they lately took away the King's Life,) before a Legal Magis-
tracy, when there shall be one again in England, which now in the least
there is not.*

Mr. Attorney. Indeed, my Lord, and you of the Jury, Mr. Lilburn is
very great Royster not a Leveller, but a Rooster, to root out the Laws of
England by the Roots.

Mr. There is not.

Lord. Col. Lilburn. By your favour, Mr. Prideaux, I knew this time, when others said it as well of you, and it is not long since, you were penned down, in a Black Bill to my Knowledge, an infamy Sait, with many others to be thrown out of the House of Commons; I pray, Sir, whether were those Rooters, that went about to root up that House, by Force of Arms, or Mr. Prideaux and others to give them Canse, at least in their Apprehension.

Mr. Attorney. My Lord, A Legal Magistracy in England at now, be smit, in the least there is not, if there be no Magistracy, I will conclude, there is no Propriety, my Lord, left in this Nation; but Mr. Lilburn saith, there is no Magistracy, and if so then no Propriety.

Lord. Col. Lilburn. It would be a very strange Argument, that you would infer, I wish you and I were to dispute that in Point of Law for our Lives; that to deny a Magistracy Legally Constituted, according to the Formalities of the Law, does not destroy Propriety; for indeed, Sir, Propriety is an Antecedent to Magistracy, and is first in being before it: but, Sir, to End the Dispute, and that owns the Law of England, (as I do) that distinguisheth men of sum, can never be a Destroyer of Propriety; I wish your practice were as consonant to Propriety as my Principles.

Mr. Prideaux. Read the 2 Pag. at the mark.

Clerk. Now, I say, considering that which is before declared, I cannot upon any Terms in the World, either with Safety, Justice, or Conscience, as things stand with me at present, give my Consent, but hinder (as much as I am able) all Addresses from me or any other, that shall own the Usurping Tyrants, as a Parliament, especially by Petition, (which was a Course,) (saith the pretended Parliament Solicitor, against the King, in his Case stated page 24.) which God's People did not take with Rehoboam, for they never petitioned him (although he was their Lawful Supreme Magistrate) but advised him, he resuling their Counsel, and hearkened to Young and Wicked Counsellors, and they Cry out, to thy Tents, O Israel, and make quick and short Work of it.

Mr. Prideaux. My Lord, here is Words again to make good at a-foresaid, that the Parliament are Usurping Tyrants, read also Page 20.

Clerk. Read on. Page 23. In the Margent of the said Book: And if those very things should now be judged Treason, as they are and were in the Earl of Strafford; I wonder what should become of all our present Juncto at Westminster, and their new thing called a Counsel of State, undoubtedly, the most if not all of them, must go to Tyburn, or Tower-hill, there by a Halter, or Ax, to receive their just Deliv're, Amen.

Mr. Attorney. There is an Amen pronounc'd to us, let him have it that deserves it, but to go on: Read the 11. pag. of his Book, called The Apprentices Out-Cry.

Clerk reads 11. page. We say, considering what is before premised,

We are necessitated and compell'd to do the utmost we can, for our own Preservation, and the Preservation of the Land of our Mat-
tivity, and never by Popular Petitions, &c. Address our selves to the
Men sitting at Westminster, any more, or to take any more Notice
of them, than is of so many Tyrants and Usurpers; and for time
to come to hinder, (as much and as far as our poor despis'd Interest
will extrend to) all others whatsoever from subscribing, or presenting
any more Popular Petitions to them. And only now as our last Paper
refuge mightily Cry out to each other, of our intollerable Oppressions
in Letters and Demonstrances, signed in the behalf, and by the Appoint-
ment of all the rest, by some of the stoutest and wittiest amongst us,
that we hope will never Apostatize, but be able through the Strength of
God, to lay down their very Lives for the maintaining of that, which
they set their hands to.

Mr. Prid: Read page 2.

Clerk reads on. Page 2. But even our Parliament (the very Mar-
row and Soul of all the Peoples Native Rights) put down, and the
Name and Power thereof transmitted, to a Pickt-party of your force-
ble selecting: and such, as your Officers (our Lords and Riders) have
often and frequently slied no better than a Mock Parliament, a
Shadow of a Parliament, a seeming Authority, or the like; preten-
ding the continuance thereof, but till a New and Equal Representa-
tive, by mutual Agreement of the free People of England, could be
elected, although now for subservency to their Exaltation, and King ship,
they Prerogue and Perpetuate the same, in the Name, and under colour
thereof, introducing a Privy Council, or as they call it a Council of State,
of Superiorty and Suppression to all future Parliaments for ever,
erecting a Martial Government, by Blood and Violence, impulsd up-
on us.

Mr. Prid: Read page 3. at the mark.

Clerk. Page 3. Trade is decayed and fild, Misery, Poverty, Cala-
mity, Confusion, yea, and Beggary, grown so sore and so extream
upon the People, as the like never was in England, under the most
Tyranical of all our Kings, that were before these in present Power,
since the days of the Conquerour himself, no Captivity, no Bondage,
no Oppression like unto this, no Sorrow and Misery, like unto ours, of
being enslaved, undone and destroyed by our large pretended Friends.

Mr. Prid: Read page 4.

Clerk. page 4. And yet nothing, but the groundless Wills and Hu-
mours, of those fore-mentioned Men of Blood rageth and realeth over
us; and is this all the Return and Fruit, that People are to expect from
your Hands?

Mr. Prideaux. Take his Preparative to an Hue and Cry after Sir
Arthur Hafferigge, and read page 2.

Clerk reads on. The Preparative to the Hue and Cry after Sir Ar-
thur Hafferigge at page 2. in the Margent, that those Men that now

field Westminster, are no Parliament, either upon the Principles of Law, or Reason.

Mr. Prideaux. Read page 3.

Clerk. page 3. They promise to amend, and to proceed according to the Form of the Law, as fully appears in their last fore-mentioned Declaration, and several others, as particularly the preface Declaration, of this present Juncto against King/ship, dated the seventeenth of March, 1643.

Mr. Prideaux. Read page 4.

Clerk. page 4. But the said Sir Arthur Hopton, &c. more Arbitrarily, and more Trayterously than Strafford, having no Pretence of Royal, Legal, or Parliamentary Commissions, or Authority, no not so much as from the present nothing, or illegal Juncto, or the present illegal thing called the Council of State, Mr. John Jordan now Member.

Mr. Attorney. My Lord, he doth declare who he Meant by Juncto: Mr. Jordan, a Member of the present Juncto, the Pretender. House of Commons, in the third Place, for the Proof of this first particular, I shall produce his Book, intituled, the Legal and Fundamental Liberties of England recovered, &c. Read page 41.

Clerk reads, page 41. But Sir, I say, no wonder, all the things foregoing rightly considered, they do own you now (as Thomas Prince hath made you) for the Supreme Authority of the Nation, although before they would neither submit to King nor Parliament, when (it was a thousand times more unquestionable, both in Law and Reason than now you are, but fought against both King and Parliament, their Setters up, Conquered them, Repelled them, Subdued them, and Broke them both : and so Pull'd up by the Roots, all the Legal and Visible Magistracy and Authority in the Nation, and thereby left none but themselves, who stand in parallel to none (as they managed their Busines) but to a Company of Murderers, Thieves and Robbers, who may justly be dispossess'd, by the civil Force that are able to do it, no pretended Authority, (has they of themselves, and by their Swords can set up, having in the right of either God or Man, either in Law or Reason, any more just Authority in them, than so many Alger Pirates, and Robbers upon the Sea have.

Lest. Col. Lilburn. You read as I take it a second Edition, whether that a second Edition or no ?

Mr. Attorney. No, no : It is not so in the Indictment, it is no second Edition, but the first. Read page 56.

Clerk. page 56. To which I answer, first. That, that Company of Men at Westminster, that gave Commission to the High Court of Justice, to try and behead the King, were no more a Parliament by Law, nor a Representative of the People, by the Rules of Justice and Reason, than such a Company of Men are a Parliament or Representative of the People; That a Company of armed Thieves chuse and set a part to try, Judge, condemn, Hang or Behead any Man that they please, or can prevail over the Power of the Sword, to bring before them by Force of Arms, to have

their Lives taken away upon presence of Justice, grounded upon Rules
merely flowing from their Wills and Swords.

Mr. Prideaux. Read the Title Page.

Clerk. *The Legal Fundamental Liberties of the People of England, re-
viewed, asserted and vindicated, or an Epistle written the eighth of June,
1649, by Lieutenant Colonel John Lilburn, (Arbitrary and Aristocratical
Prisoner in the Tower of London,) to Mr. Will. Lenthall Speaker, in
the remanufer of those few Knights, Citizens and Burghesses, that Colo-
nel Thomas Pride, at his late Purge, thought convenient to leave sitting
at Westminster, (as most fit, for his and his Masters Design, to serve
their Ambitious and Tyrannical Ends, to destroy the Good Old Laws, Li-
berties and Customs of England, the Badges of our Freedom (as the De-
claration against the King of the 17. of March, 1648, page 23, calls them)
and by Force of Arms, to rob the People of their Lives, Estates and Pro-
perties, and Subject them to perfidous Vassalage and Slavery, as he clearly
avoucheth in his present Case, &c. they have done) and who (in truth
no otherwise than pretendedly file themselves, the Parliament of Eng-
land.*

Mr. Prideaux. Read page 2.

Clerk. Sir, For distinction Sake, I will yet file you, Mr. Speaker, al-
though it be but to Colonel Pride's Justice or Parliament sitting at West-
minster, (not the Nation's, for they never gave him Authority to issue
out Writs, to elect or constitute a Parliament for them,) and a little be-
low in the same second page, I accused Oliver Cromwell for a wilful Mur-
derer, and desire you there to acquaint your House therewith, (who then
had some little hand of a Parliament stamp upon it.)

Mr. Prideaux. Read page 28.

Clerk. page 28. *The like of which Tyranny the King never did in his
Reign, and yet by S. Oliver's means lost his Head for a Tyrant; but the
thing that I principally drive at here, is to declare that Oliver and his
Parliament now at Westminster (for the Nation's it is not) having plucked
up the House of Lords by the Roots.*

Page 44. *So that if it be Treason to call this a _____
— a Mock Parliament, yea and to say —
and if this be true, for true it is,* then there is nei-
ther Legal Justice, nor Justice of Peace in England.*

Mr. Prideaux. Read page 37.

Clerk. page 37. *For if they ever had intended an Agreement, why do
they let their own lie dormant in the pretended Parliament ever since they
presented it; seeing it is obvious to every knowing eye, that from the Day
they presented it, to this hour, they have had as much Power over their
own*

* These Words cannot be found in page 44. but are in the Book it-
self, which time will not permit to read all over, and therefore at pre-
sent it passeth lame and imperfect.

own Parliament now sitting, or any School-master in England had over his Boys.

Clerk. page 44. *For Their Interest and the King's, both being Interests of Truth, as your Declarations do plenifullly and plainly declare; but especially your present Junto's late Declaration against the late beloved King, and Kingly Government.*

Mr. Prideaux. Read pag. 51.

Clerk. page 58. *And let the present Generation of swaying Men, that under pretence of God, Kindness, and Friendship, have destroyed and trod under Foot all the Liberties of the Nation, and will not let us have a New Parliament, but set up by the Sword their own Insufferable, Insupportable, Tyrannical, Tyranny.*

Lient. Col. Lilburn. I pray, Sir, are all these Quotations in the Indictment Verbatim? I do not remember that I heard them there.

Mr. Attorney. No, We do not offer any Book but what is charged in the Indictment; for we do say, that he published those things among other Clauses and things in those Books; so that we bring in no Book that is not contained in the Indictment. Read page 64.

Clerk. page 64. *That so that might Rule, Direct and Counsel their Mock-Parliament.*

Mr. Prideaux. Read page 68.

Clerk. page 68. *That that High Court of Justice was altogether Unlawful, in Case these that had set it up, had been an unquestionable Representatives of the People, or a Legal Parliament; neither of which they are not in the least, but as they have managed their Business in opposing all their primitive Declared Ends, are a Pack of Tray-terous self-seeking Tyrannical Men, Usurpers of the Name and Power of a Parliament.*

Mr. Attorney. Read page 72.

Clerk. page 72. *Then with much more Confidence say I, that now this is no Parliament, and so by Consequence, the High Court of Justice is no Court of Justice at all.*

Mr. Attorney. My Lord, that which we shall offer you next, is the Salva Libertate, which the Lieutenants of the Tower had from Mr. Lilburn himself, read at the mark.

Clerk +. *A Salva Libertate, although I then told you I judged a Paper Warrant, (alrthough in Words never so formal) coming from any pretended Power or Authority in England now visible, to be altogether illegal; because the intruding General Fairfax and his Forces, had broke and annihilated all the Formal and Legal Magistracy of ENGLAND, yea the very Parliament it self; and by his Will and Sword (absolute Conqueror like) had most Tyrannically Erected and Set up, and imposed upon the free People of this Nation, a Junto or Mock-Parliament, sitting at Westminster; whom he and his Associates call a Parliament, who like so many Armed Thieves and Robbers upon the Highway, assume a Power by their own Wills, most Trayterously to do most*

they like ; you and to fill the Land with their Mock or Pretended Magistrates, amongst the number of which, is the Pretended Attorney General, the perfect Oppositor of whom, to the arms of my Might, Power, and Strength, I am resolved by Gods Gracious Assistance to spend my Blood and all that in this World is dear unto me. Supposing him not ready and substantially worthy the Name of an English Free-man, that in some measure in this particular is not of my Mind.

Mr. Attorney. My Lord, in the Case of this Charge what Mr. Lilburn is pleased to say concerning me, I shall say no more but only this, I shall not do so by him, I shall not spend my Blood against him, you see what he saith, that the present Government is Tyrannical Usurped, and Unlawful, that the Commons of England in Parliament assembled, are not the Supreme Authority, but a Junto, a Mock-Power, a Mock Parliament, a Company of Traytors that Rule merely by the Dictates of their own Will, I could alledge more of his Books unto you, which have words in them very Notorious, and very Publick, he doth in express words say, that the Government is Arbitrary, Tyrannical, and a new Erected Ruining, Inslaving, Robbing Government, To Rule them Tyrants, Usurpers, Traytors, parallel to none but Murtherers, Robbers, Thieves, no Parliament at all, but Thomas Prides Junto and school boys, Destroyers of the Laws and Liberties of the Nation, the present Junto (Chimera's, Fooleries, and the like) all these Expressions and many more, which I am sorry I have Occasion to repeat to you, that so much dirt should be thrown into the Face of any Magistrate of England. My Lords, these are now the best which do Rule, My Lords, I hope you, and the Gentlemen of the Jury will take Notice of it, as to be very clear, pregnant, evident Proof, that Mr. Lilburn hath thus published and thus said, and besides this you see what he does go too, he denyes all Magistracy *, so that now we are all alike, a Chaos, a Confusion and this he hath brought us too, or would have endeavoured it, my Lords, I shall not aggravate, and if I did say no more it were enough, but I come to the second general Head of the Charge, which is ; That he hath plotted and contrived to levy or raise Forces to subvert and overthrow the present established Government, in the way of a free State or Common-wealth ; my Lords, if I should say nothing more to the Jury, this that hath been already read is evident Proof of that, for certainly those that shall say that the Governors be Tyrants, that the Parliament is Tyrannical, that they are Men of Blood, Destroyers of Laws and Liberties ; this cannot be of any other Use, but to raise Force against them, for Subverting and Destroying of them, as he himself saith, as so many Weasels or Pole-cats, especially

* That's false, he doth no such thing, but at most saith the Army hath destroyed all the Legal Magistracy of the Nation, and they are the Men that thereby are the real Levellers and Rooters.

If you consider to whom these words were declared, to the Army in General, especially to the Generals Regiment of Horse, that helped to Planter and Destroy Mr. Lilburn's true Friends, defeated at Burford, and some of which were most rashly as Traytors executed.

My Lords, if I would say nothing more to the Jury but this, there is full and pregnant Proof already; but yet, my Lord, further to shew the Malice of Mr. Lilburn's Heart, and that he did intend to raise Forces, to invade, and to write them to help him to Subvert and Destroy the Parliament, and for the Proof of this, read the fifth page of his Impeachment of High Treason against Oliver Cromwell.

Clerk read page 54. But my true Friends, I shall here take upon me the Boldness (in regard of the great Distractiōn of the present Times) to give a little further Advice to you, from whose Company, or Society (or from some of them) bathe began, and issued out the most transcendent, clear, rational, and just Things for the Peoples Liberties and Freedoms, that I have seen or read in this Nation; as your Notable Petition of May 20. 1647. burnt by the Hands of the Common Hangman, tortured in my Book called Rash Oaths unwarrantable, page 29, 30, 31, 32, 33, 34, 35, with divers other Petitions of that Nature, and the Petition of the nineteenth of January, 1647. recorded in the following Discourse, page 43, 46, 47, 48, &c. and the Masculine Petition of the eleventh of September, 1648. so much owned by Petitions out of several Countries, yea and by the Officers of the Armies large Remonstrance, from St. Albans of the sixteenth of November, 1648. page 67, 68, 69. The substance of all which, I conceive is contained in the Printed Sheet of Paper signed by my Fellow Prisoners Mr. William Walwyn, Mr. Thomas Prince, and Mr. Richard Overton, and my self, dated the 1. of May, 1649. and intituled, An Agreement of the Free People of England, &c. The Principles of which I hope and desire you will make the final Centre and unmovable Standard of all your Desires, Hazard, and Endeavours as to the future Settlement of the Peace and Government of this Distracted, Wasted, and Divided Nation; the firm establishing of the Principles therein contained, being that only which will really and in good earnest marry and knit that Interest whatever it be that dwelle upon them, unto the Distressed and Oppressed Commons or People of this Nation; yea, the sealing of which Principles, is that that will shewly make it evident and apparent unto all understanding People in the World, that the real and hearty Good and Welfare of this Nation, hath Cordially and in good earnest been that, that their Souls have hunted for, and thirsted after, in all the late Bloody Civil Wars and Contentions; all the Conquests of the King's Party for

* In calling Tyrants Weasels and Pole-cats, he hath said no more but what he hath learned out of St. John's own Argument, of Law against the Earl of Strafford; at which you have no Cause to be angry, because they are the words of one of your own Brother Lawyers.

his Will and Prerogative, being nearly selfish, and so none of the People Insgrell, and the Countess of the Presbyterians, for their make base dividing Hypercritical Covenant no better in the least; and the present Control of the present Dissembling Interest of Independents; for the Peoples Liberties in general. (read the following Discourse page 27, 28, 29, mostly no more but self in the highest) and so set up the false Saint, and most desperate Apostate, Murderer, and Tyrant Oliver Cromwel, by a pretended Election of his Mercenary Soldiers, under the false Name of the Godly Interest, to be King of England, &c. (that being now too apparently, all the intended Liberties of the People thus ever he sought for in his Life) that so he might Rule and Govern them by his Will and Pleasure, and so destroy and enslave their Lives and Properties to his Lust, which is the Highest Treason that ever was committed or acted in this Nation in any Sense or Kind; either 1. in the Eye of the Law, or 2. in the Eye of the Ancient (but yet too much arbitrary) Proceedings of Parliaments; or 3. in the Eye of their own late declared Principles of Reason (by Pretence of which, and by no Rules of Law in the least) they took away the late King's Head, which if there were any Law or Justice in England to be had, or any Magistrates left to execute it (as in the least there is not) &c.

Mr. Prideaux. Read page 7.

Clerk page 7. But the Principles of theforesaid Agreement being so detestable and abominable to the present ruling Men, as that which they know will put a full End to their Tyranny and Usurpation; and really ease and free the People from Oppression and Bondage, that it is something dangerous to those that go about the Promotion of it; yet I shall advise and exhort you vigorously, to lay all Fear aside, and to set on Foot the Promotion of it, in the same Method we took for the Promotion of theforesaid Petition of Jan. 19. 1649. laid down in the following Discourse, p. 23, 24, 25. and write to your Friends in every Country of England, to chuse one from among themselves and send up some Agents to you, (two at least from each County, with Money in their Pockets to bear their Charges) to consider with your called and chosen Agents of some effectual Course speedily to be taken, for the settling the Principles thereof, (as that only which in an earthly Government can make you Happy) or at least to know one anothers minds in owning and approving the Principles thereof; that so it may become to you and your Friends, your Center, Standard, and Banner to flock together too in the time of these Foreign Invasions and Domestic Insurrections, that are like speedily to bring Misery enough upon this Poor and Distressed Nation; and unanimously resolve and ingage one to another, neither to side with, or fight for the Chimera's Fooleries and Pride of the present Men in Power; nor for the Prince's Will, or any other base Interest whatsoever (the which if you should fight for, it would be but an absolute Murdering of your Brethren and Country-men you know not wherefore) unless he or they will come up to those Just, Righteous, and Equitable Principles therein contained, and give rational and good Security for the constant Adhering thereto; and upon such Terms I do not see but you may justifiably be-

fire God or Man, joy with the Prince himself; yes, I am sure a thousand times more justly than the present ruling Men (upon a large and serious debate) joyned with Owen-Roc-Oncle, the grand bloody Rebel in Ireland, who if we must have a King, I for my part had rather have the Prince, than any Man in the World, because of his large pretence of Right, which if he come not in by Conquest by the hands of Foreigners (the bare attempting of which may apparently Hazard him the last of all at once, by gluing together the now divided People, to joyne as one Man against him) but by the hands of Englishmen, by Concrell upon the Principles aforesaid (which is easie to be done) the People will easily see, that presently therupon they will enjoy this transcendent Benefit (by being at Peace with all Foreign Nations, and having no regal pretended Compositor (viz. the immediate disbanding all Armies and Garrison, saving the Old Cinque-ports, and so these three grand Plagues of the People will cease; yz. Free-quarter, Taxations, and Excise, by means of which, the People may once again really say they enjoy something they can in good earnest call their own, whereas for the present Army to set up the false pretended S. Oliver (or any other) as their elected King, there will be nothing therby from the beginning of the Chapter to the End thereof but Wars, and the cutting of Throats Year after Year, yes, and the absolute keeping up of a perpetual and everlasting Army, under which the People are absolute and perfect Slaves and Vassals, as by woful Experience they now see they perfectly are, which Slavery and absolute Bondage is dayly like to oversaze, under the present Tyrannical and Arbitrary new Breded Robbing Government.

Mr. Attorney. He hath blown the Trumpet, for all that will to come in, he hath set up his Center, he would have it to be a Standard for all his Friends to flock to him, and to make them the more quick in breaking them to their Arms, he hath Falsly and Maliciously therfore sa'd, that the Parliament had joyned with Owen-Roc-Oncle, which I can assure all that hear me this Day, the Parliament alwayes Detested, Abominated, Disavowed, and Declared against, and never had any thoughts that Way, my Lord, the false Imputations of his laid upon the Parliament, are almost numberless. But in the second place, I come to that pretty Bauble that's of his own making, The Agreement of the People, dated at the Tower, of May, 1649. and shall desire your Lordships to judge whether this Agreement of the People which he made, and his Friends then in the Tower, did intituled it, The Agreement of the People, as signed by them, for they call'd it, An Agreement of the Free People of England: strikes not at the very Root of all Government.

Lient. Col. Lilburn. Pray, Sir, look whether it be licensed or no, according to the Law of the Nation, and if it be licensed by publick Authority, how comes it to be Treason, that's very strange.

Mr. Attorney. It is so.

Lient. Col. Lilburn. Pray, Sir, go and Question the Licenser then.

Mr. Attorney. We must Question the Author, the Licenser will not use it, read page 2.

Clerk.

Clerk read page 2. This Agreement being the ultimate End and full Scope of our Desires and Intentions concerning the Government of this Nation. And a little below often the long and tedious Prosecution of a most Unnatural, Cruel, Home-bred War, occasioned by Discontents and Dissensions amongst our soldiers, and these Dissensions arising from the uncertainty of our Government, and the Exercise of an Unlimited or Arbitrary Power, by such as have been trusted with Supreme and Subordinate Authority, whereby multitudes of Grievances and insufferable Oppressions have been brought upon us; and finding after eight Years Experience and Experiment, all Endeavours hitherto used, or Remedies hitherto applied, to have increased rather than diminished our Distractions; and that if not speedily prevented, our falling again into Passions and Dissensions, will not only deprive us of the Benefit of all those wonderful Victories God hath wrought against such as sought our Bondage, but expose us first to Poverty and Misery, and then to be destroyed by foreign Enemies.

Mr. Attorney. Read page 3.

Clerk page 3. Agree to ascertain our Government, to abolish all Arbitrary Power, and set bounds and limits, both to our Supreme and all Subordinate Authority, and remove all known Grievances; and accordingly do declare and publish to all the World that we are agreed as follows. Page ibid. That the Supreme Authority of England, and the Territories therewith incorporate, shall be and reside henceforward in a Representative of the People, consisting of four hundred Persons, but no more.

Mr. Prideaux. The manner of the Choice of whom, &c. they leave to this Parliament. Read a little below.

Clerk. All things concerning the Distribution of the said four hundred Members proportionable the respective Parts of the Nation, the several Places for Election, the manner of giving and taking, of Voices, with all Circumstances of like Nature, tending to the comprising and equal Proceedings in Elections; as also their Salary is referred to be settled by the present Parliament, in such sort as the next Representative may be in a certain Capacity to meet with safety, at the time herein expressed; and such Circumstances to be made more perfect by future Representatives.

We agree that this present Parliament shall End the 3 Wednesday in August next, 1649; thenceforward to be of no Power or Authority; and in the mean time shall Order and Direct, the Election of a New and Equal Representative, according to the Intent of this our Agreement, and so the next Representative may meet and sit in Power and Authority, as an official Representative upon the Day following; namely, the 1 Thursday of the same August, 1649.

Page ibid. We agree, if the present Parliament, shall omit to Order such Election, meeting of a New Representative, or shall by any means be hindered from the performance of that Trust, that in such Cases shall for the next Representative proceed, in electing thereof in those Places, and according to that manner and number formerly accustomed in the Chancery.

of Knights and Burgesses; observing only the Exceptions of such Persons from being Electors, or Elected, as are mentioned before in the 1st, 2^d, and 4th Heads of this Agreement; it being most unreasonable, that we should either be kept from more frequent and successive Representations, or that the Supreme Authority should fall into the hands of such as have manifested Disaffection to our Common Freedom, and endeavoured the bondage of the Nation. And for preserving the Supreme Authority from falling into the Hands of any whom the People have not or shall not chuse. We are resolved and agreed (God willing) that a New Representative shall be upon the 1st Thursday in August next aforesaid, be ordering and disposing of themselves, as to the Choice of a Speaker, and the like Circumstances, as hereby left to their Discretion; but are in the extent and exercise of Power, to follow the Direction and Rules of this Agreement, and are hereby Authorized and required according to their best Judgments, to set Rules for future equal Distribution and Election of Members, as is herein intended and enjoyned to be done, by the present Parliament.

Mr. Attorney. Read page 8.

Clerk. page 8. And all Laws made, or that shall be made, contrary to any part of this Agreement, are hereby made null and void.

Mr. Attorney. My Lords, hear by this Agreement of the People, that Mr. Lilburn hath published to the World, in which, my Lord, he had designed how many the Supreme Authority shall consist of, the time when the Parliament shall dissolve, as also the time when his own Parliament shall meet; this Parliament to be dissolved the first Wednesday in August, 1649, all Laws contrary to this to be null and void; and if it you shall find some Expressions of Treason in the height, that whatsoever shall do contrary to it, shall be most severely punished: In the next Book before this, it is desired by him, that this Agreement of the People may be the Center the Banner and Standard of all his Friends, and that they go on courageously with it; which is, my Lord, to dissolve this Parliament, and to put on this new one of Mr. Lilburn's appointing: This we conceive which is of Mr. Lilburn's appointing, would (if effected) be an absolute Subversion of this in being, and this is High Treason. My Lord, we shall go on with more yet, and that is, with his Out-Cry; my Lord, if you please to see the Title, and see to whom it is directed, what was intended to be done with it; it is intituled, An Out-Cry of the Young-Men and Apprentices of London, directed (August 29, 1649,) in an Epistle to the Officers and Soldiers of the Army, especially all those that signed the Solemn Engagement at New-market-heath the 5. of June, 1647, but more especially, to the private Soldiers of the Generals Regiment of Horse, than to Plunder and Desray the Honest and True-hearted Englishmen.

Order. Mr. Attorney. A good encouragement, they were Trayeronly defeated at Bursford; but we are Rebels and Traytors, and our Army Murderers, and Butchers, for giving some of those declared Traytors their due Domes. Choose it, but that you may see his tendency by this Book read, page 11.

Clerk.

Clark page 11. We say, considering what is before premised, we are necessitated, and compelled to do the utmost we can for our own Preservation, and for the Preservation of the Land of our Nativity, and never (by Popular Particulars) address our selves to the Men sitting at *Wimbley* any more, or to take any more Notice of them than of so many Tyrants, and Usurpers, and for time to come to hinder (as much as we can as far as our poor despised Interest will extend to) all others whatever from subscribing or presenting any more Popular Petitions to them. And only now as our last Paper refuge, mightily Cry out to each other of our intollerable Oppressions in Letters, and Remonstrances figura in the behalf and by the Appoinement of all the rest, by some of the Stoick and stiffest amongst us that hope will never Apostatize, but be the through the Strength of God to lay down their lives for the maintaining of that which they set their Hands to.

You our Fellow-Country-men (the private Soldiers of the Army) alone being the Instrumental Authors of your own Slavery and own. Therefore as there is any Bowels of Men in you, any love to your Native Country, Kindred Friends or Relations, any spark of Conscience in you, any hopes of Glory or Immortality in you, or any Pitty, Mercy, or Compassion, to an Inslaved, Undone, Perishing, and Dying People; O help, help, save and redeem us from total Vassalage and Slavery, and be to more like Brute Beasts, to fight against us, or our Friends, your loving and dear Brethren after the Flesh, to your own Vassalage, as well as our.

And as an assured Pledge of your future Cordialness to us (and the true and real Liberties of the Land of your Nativity) we beseech and beseech of you (but especially those amongst you that subscribed the Solemn Engagement at Newmarket-Heath, the 5. of June, 1647.) Speedily to chuse out amongst your selves two of the ablest, and constanciest faithful Men amongst you in each Troop and Company, now at last (by corresponding each with other, and with your honest Friends in the Nation to consider of some effectual Course (beyond all Pretences and Cheats, to accomplish the real End of all your Engagements and Fightings, viz. the settling of the Liberties and Freedom of the People, which can never be permanently be done, but upon the sure Foundation of a Popular Agreement; who (viz. the People) in Justice, Gratitude, and common Equity, cannot chuse but voluntarily and largely make better Provision for your future Subsistence (by the Payment of your Arrears (then ever you Officers, or this pretended Parliament intends, or you can rationally expect from them; Witness their cutting off three parts of your Arrears in four, for free Quarter; and then necessitating Abundance of your Fellow-Soldiers (now cashiered, &c.) to sell their Debentures at two Shillings and six Pence, three Shillings, and at most four Shillings per l.

Mr. Attorney. See, my Lord, here we are fit'd Tyrants, Usurpers introducing Government, Oppression of the People, and Mr. Lilburn is resolved with his Friends to joyn together, and to lay down their very Lives for this: This I think is a Trumpet blown aloud for all the Dissentient People

People in the Nation, to flock together, to root up and destroy this Parliament, and so the present Government: has read also in the same Book, page 9.

Clark, page 9. For the effectual Promotion of which said Agreement, we are necessarily compelled to resolve in close Union to joyn our selves, our Commissioners (chosen for that end) in Council, with our foreaid Berford-friends, or their Commissioners, and to resolve to run all Hind-sarks to Methodize all our honest Fellow-Apprentices, in all the Wards of London, and Out-Parishes, to chase out their Agents to joyn with us, or ours, to write exhortative Epistles to all the Honest-hearted Freedmen of England, in all the particular Countries thereof, to erect several Councils amongst themselves; out of which we shall desire (and exhort them) to chuse Agents, or Commissioners (empowered and intrusted by them) speedily to meet us, and the Agents of all our (and the Agreement of the People) Adherents at London, resolvedly to consider of a speedy and effectual Method and Way how to promote the Election of a New and Equal Representative, or Parliament: by the Agreement of the Free People, seeing those Men that now sit at Westminster, and pretendedly style themselves the Parliament of England; and who are as they say (although most falsely) in the Declaration for a Free State, dated March 17. 1649. pag. 27. Intrusted, and Authorized by the Consent of all the People of England, whose Representatives they are, make it their Chiefest and Principallest Work, continually to part and share amongst themselves, all the great Rich, and Profitablest Places of the Nation; as also, the Nations publick Treasure and Lands, and will not ease our intollerable Oppressions; no nor so much as of late receive our popular Petitions, having upon Thursday last, Augst. 23. 1649. rejected that most Excellent of Petitions ready at their door to be presented to them by divers honest Men (our true-hearted Neighbours of Surrey) the true Copy of which, for the worth of it, although it be at large already Printed in Friday Occurrences, and the Tuesday Moderate, we desire here to insert.

viz. Mr. Attorney. My Lord, this is a loud one, whom does he joyn us never withal, but only with those very Men that justly suffered Death, many of them for us? My Lord, now it's resolved that these Men shall be closely Equiped with them, and what to do? still to promote The Agreement of the People, that which Mr. Lilburn hath hatched, and that must be the reason why that those declared open Traytors and Rebels, that Mr. Lilburn willily engyn with, must nurish up. My Lord, we shall go on further to shew certain what Mr. Lilburn drives at, which is not much differing from us, for he fellow would have a Free State, but, my Lord, this that is now in being, it will not go in Mr. Lilburn's way, and therefore it must be overthrown by force and Arms, that so may may be made for his new * Common-wealth,

* And yet a few Days before his Tryal, several principal Leading Members

we shall go further on, say 27th, and in the next Place quote his Bill intituled, The Legal Fundamental Liberties of the People of England revived, asserted and vindicated, &c. Read page 57.

Clerk. Read page 57. And the present Setters up of this Tyrannical new Common-wealth, considering their many Oaths, Covenants, Promises, Declarations and Remonstrances to the contrary, (with the highest Promises and Pretences of Good for the People and their declared Liberties, that ever was made by Men) are the most Perjured, Perfidious, False, Faith and Trust-breakers, and Tyrants that ever lived in the World, and ought by all rational and honest Men, to be the most detested and abhorred of all Men that ever breathed, by how much the more under Pretence of Friendship and Brotherly Kindness, they have done in the Mischief they have done, in destroying our Laws and Liberties.

Mr. Attorney. My Lord, and you, Gentlemen of the Jury, you say Mr. Lilburne has been pleased very often to give the Name of Tyrants to the Parliament; I would give no other Instance, nor show no other example but Mr. Lilburne himself, to disprove himself, and with much confidence affirm, that never State had before (neither King nor State) since the Foundations of it, so much cruelty, nor have endured with so much Patience any Man whatsoever, as they have done Mr. Lilburne, notwithstanding all his Traitorous Provocations, and Traitorous Design, undertaken against them, as yet since as this Day and now hath fair play to plead for his Life, I would take him for his own Confessor, and see by all that has been done by him, and see if he could make good his acting, and make good the Parliaments dealing with him therefore, can be demonstrated by him, so prove them Tyrants. My Lord, I can hardly forbear to say, and bear his dangerous and desperate Expressions, to incite all People for to take up Arms against the Parliament to cut their Throats like Polecats and Wansels. My Lords, here to file them the most Perjured, Perjured, False, Faith and Trust-breakers, and Tyrants that ever lived in the World, and to be the most abhorred and detested of all the People, above all Men that ever breathed, O insufferable, and the highest of Treason!

Lient. Col. Lilburne. Sir, all the Wit of all the Lawyers in England, could never bring it within the compass of High Treason, by the Old and Just laws of this Nation, that abhors to oppres Men contrary to Law, and then if they seem but to cry out of their Oppressions to make them Traitors for Words.

Mr. Attorney. I am Convinced the last Lawyer in England, would have brought this within the Statute of Treason of the 25. Ed. 3. Ch. 2.

Members of the House and Council of State told his Wife, and several other of his Friends, that Mr. Lilburne was turned Cavalier, and had joyned with the Prince, and they had several Letters under his own hand to prove it.

My Lord, you shall see there is more scope, the Parliament with them are Tyrants, Traytors and Usurpers ; and therefore he stirre up the People to destroy them. But in the third Place, you shall see who is the Author; he gives his name, my Lord General Fairfax, and his Chief Officers, there, my Lord, he that reads the Books and doth not know the Persons, he would think that they were Monsters, and not Men, although they are so Famous and Glorious, that all the World have rung of them to their Praises. But, sir, he, never was there more glorious Declarations made by Men than by them, and yet never performed any of them; Nay, he doth not only call them also Covenant- and Engagement-breakers; but he calleth the Lord General, Tyrant, Murderer, and what not: And the Officers, Perfidious Officers. My Lord, what I observid in the last Clause of the Act is, that whatsoever goes about to draw the Soldiers from their Obedience to their Superior Officers, or from their Obedience to the present Government, that is High-Treason, and this likewise we shall find him Guilty of, in his Legal Fundamental Liberties of England infirmit and vindicated, it is in the first side of the Epistle that in the first place I pitch upon, and it is in the second side of the Epistle that in the second place I pitch upon, Clerk, pag. 1. of the Epistle. I positively accuse Mr. Oliver Cromwell, for a wilful Murderer, (and desire you to acquaint your House therewith) for Murdering Mr. Richard Arnold near Ware, Mr. Attorney. Which Man, my Lord, was condemned for a Mutineer by a Council of War, where the Lord Lieutenant of Ireland was but one Member, and the Parliament gave him, and the rest of that Council thanks, for shooting that mutinous Soldier to Death. And yet, Mr. Lilburn calls him Murderer therefore, and this is laid to my Lord Lieutenant's Charge for his part.

Lient. Col. Lilburn. Doth not the Petition of Right absolutely condemn all such Acts in time of Peace, when the Courts of Justice are open, and the Judgment of the Earl of Strafford doth abundantly condemn it, who lost his Life for a Traytor, for doing the very same Act in kind and Manner, at that time, when he in the Eye of the Law, was as Legal a General, as the General was that condemned that Man.

Mr. Attorney. My Lord,

Lient. Col. Lilburn. I pray, Sir, bear me out, and save I am, the Declarations of all the Powers extant in England, ever since, hath been to maintain the Petition of Right inviolably; yea, even those that are now in present Power; and if the Petition of Right be true, to shoot Soldiers, as Arnold was, is absolute Murder: Nay further, if the Judgments of the Parliament upon the Earl of Strafford for such an Act be legal; then all those that had a hand in shooting that Soldier, are Traytors, and ought to die for it, as well as Strafford.

Clerk. Reads on the second side in the Epistle. Of all which Crimes and Charges, and all your others against the King, contained in your aforesaid Declaration, I know not three of them, but Cromwell and his confederates, in your pretended House and Army, are as Guilty of the like

like in kind, though under a new Name and Notion, as the King was in the forementioned, if not more Guilty.

Mr. Pridene. *Read page 35.*

Clerk. *Page 35.* But alas poor Pools! we were shortly Cheated and Cozened, it being the principal Unhappiness to some of us, as to the rest, to have our Eyes wide open, to see things long before most honest Men come to have their Eyes open; and this is that which turns to our Smart and Reproach, and that which we Commissioners feared at the first, viz. that no Tye, Promises, nor Engagements were strong enough to the Grand-juglers and Leaders of the Army, was now made clearly manifest; for when it came to the Council, there came the General, Cromwell, and the whole Gang of Creature-Colonels, and other Officers, and spent many Days in taking it all in Pieces, and there Ireston showed himself an Absolute King, if not an Emperour; against whose Will no Man must dispute; and then Shatielock, Rose their Scout, Okey, and Major Barten (where Sir Hardress Waller late President) began in their open Council, to quarrel with us, by giving some of us base and unworthy Language, which procured them from me a sharp retortment of their own baseness and unworthiness into their Teeth, and a Challenge from my self into the Field; besides, seeing they were like to fight with us in the room in their own Garrison, which when Sir Hardress Waller in my ear reproved me for it, I justified it, and gave it him again, for suffering us to be so affronted; and within a little time after, I took my leave of them for a pack of dissembling juggling Knaves: amongst whom in Consultation, ever thereafter I should scorn to come (as I told some of them,) for there was neither Faith, Truth, nor common Honesty among them, and so away I went to those that chose and intrusted me, and gave publicly and effectually (at a set-meeting appointed on purpose) to divers of them, an exact Account how they had dealt with us, and Cozened and Deceived us; and so absolutely discharged my self, from meddling or making any more, with so Perfidious a Generation of Men, as the great Ones of the Army were; but especially the Gunningest of Machavilians, Commissary Henry Ireton.

Mr. Attorney. *Read pag. 37. at the mark.*

Clerk. *Page 37.* Which the General and his Council knew well enough: and I dare safely say it upon my Conscience, that an *Agreement of the People, upon Foundations of just Freedom*, gone through with, is a thing the General, and the Chiefest of his Council, as much hates, as they do Honesty, Justice, and Righteousness (which they long since abandoned) against which, in their own Spirits, they are absolutely resolved (I do verily believe) to spend their Hearts blood, and not to leave a Man breathing in English Air (if possibly they can) that throughly and resolutely prosecutes it; a New and Just Parliament being more dreadful to them, than the great Day of Judgment, so much spoken of in Scripture; and although they have beheaded the King, yet I am confidently perswaded their Enmity is such at the Peoples Liberties, that they would sooner

the hazard of letting the Prince in, to Reign in his Father's land, than further really a just Agreement, or Endeavour a New Parliament rightly constituted.

Mr. Attorney. Read page 38.

Clerk. page 38. When as also! it is as visible, as the Sun when it shineth in its glory and splendor, that *King* *Charles*, and *King* *of* *Old*, were never such Rebels against Authority, as the General and his Council are; nor the Anabaptists at *Munster*, with *John* *of* *Leyden*, and *Reverdallius*, were never more Contemners of Authority; nor *Jack* *Straw*, nor *Wat* *Tylor*, nor all those Famous Men, mentioned with *Black* *Pen* in our Histories, and called Rebels and Traitors, can never be put in any Scale of equal Balance, for all manner of *Rebellions* and *Treasons*, against all sorts and kinds of Magistracy, with the General and his Council.

Mr. Attorney. See, my Lord, and you, Gentlemen of the Jury, you fit *New* *Lilburn*, gives the General and his Officers as bad Fodder, as he can give the worst of Rebels and Traitors; or the Duke of *Monmouth*, has we go on to his Out-Cry, read the Title of it.

Clerk. *An Out-Cry of the Young-men and Apprentices of London*, page 3, where it is thus: Sure all Sense and Compunction of Conscience is not totally departed from you.

Mr. Attorney. If it please you, my Lord, because the Jury may observe it, *The Book* is directed to the *Soldiers* of the *Army*, and that in an Out-Cry, &c. now read page 3.

Page 8. Sure all Sense and Compunction of Conscience is not totally departed from you; hear us therefore, in the earnest Bowels of Love and Kindness, we intreat and beseech you with Patience, and do not abuse us for complaining and crying out; for the Knift hath beene very long at the Throats of our Liberties and Freedome, and our Burthens are too great and too many for us; we are not able to bear them, and constraine our selves; our Oppressions are even ready to make us despair; or forthwith to fly to the prime Law of Nature, *viz.* the next violent Remedy by hand, light it where it will, or upon whom it will; they are becoming a devouring Fire to our Bones ready to burn us up, rendering us desperate and careless of our Lives, Prisoning those that are already dead, above those that are yet living, who are rid of that Pain and Tortment, but we do and must endure, by sevibly seeing and beholding not only the living, but the Daily Burial of our Native Liberties and Freedoms; that we care not what becomes of us, seeing that we are put into that Original State, or Chaos of Condition; wherin Justice is become a Law, Envy and Malice are become Laws, and the strongest Sword rules and governs all by Will and Pleasure; all our Ancient Boundaries and Boundmarks are pull'd up by the Roots, and all the Ties and Bonds of Human Society in our English Horizon totally destroyed, and extirpated; Alas for pity! we had rather dye, than live this Life of languishing Death, in which our Musters possess nothing (to buy themselves or us Bread, to keep us alive)

that they can tell their own ; therefore it's no honour for us to leave out our times, and continue at our devolging Trades, while those Oppressions, Cruelties, and Inhumanities are upon us, and the rest of the People, exposing thereby not only the Nation to domesick Broyle, Wars, and Blood-sheds (wherein we are sure our Bodies must be the principal Bums) but to Foreign Invasions, by *France, Spain, Denmark, Sweden, &c.* as was well observed by our endeared and faithful Friends, of the forementioned late Treacherously defected Party at *Burford*, in their Book of the 20. of August, 1649, intituled, *The Loyalists vindicated, or, the Cause of their true Troops truly stated*, pag. 11, 12. which we cannot but seriously recommend (with them) to your serious Pessal and Judgment ; and desire to know of you (but especially the private Soldiers of the Generals Regiment of Horse, which we understand had a hand in seizing upon, and plundering our true Friends at *Burford*) whether you do own the abominable and treacherous Dealings of your General and Lieutenants General *Cromwell*, and their Perfidious Officers with them, or no, that so we may not condemn the innocent with the Guilty, &c.

Mr. Attorney. Read pages 11.

Clerk. Page 11. You our fellow Country-men (the private Soldiers of the Army) alone, being the Instrumental Authors of your own Slavery and ours ; therefore as there is any Bowels of Men in you, any Love to your Native Country, Kindred, Friends, or Relations, any Sparks of Conscience in you, any Hopes of Glory or Immortality in you, or any Pity, Mercy or Compassion to an Enslaved, Undone, Dying, Perishing People, O Help, Help, Save and Redeem us from total Vassalage and Slavery, and be no more like brute Beasts, to fight against us or our Friends, &c.

And as an assured Fledge of your future Cordialness to us, (and the true and real Liberties of the Land of your Nativevity) we beseech and beg of you (but especially those amongst you, that subscribed the Solemn Engagement, at New-market the 5th of June, 1647.) speedily to chuse out from amongst your selves two of the ablest, and most faithful Men amongst you, in each Troop and Company, now at last (by corresponding each with other, and with your honest Friends in the Nation to consider of some effectual Course (beyond all Pretences and Cheats) to accomplish the real End of all your Engagements and Fightings, viz. the settling the Liberties and Freedoms of the People, which can never be permanently done, but upon the sure Foundation of a popular Agreement, who (viz. the People) in Justice, Gratitude, and common Equity, cannot chuse but voluntarily and largely make better Provision for your future Substance, than ever your Officers, or this pretended Parliament intends, &c.

Mr. Attorney. Read the Title of his Impeachment.

Clerk. An Impeachment of High Treason against Oliver Cromwell &c.

Mr. Attorney. Read page 2.

Clerk

Clerk. Page 2. But I shall rather desire and advise you, by Letter like your selves, to address your selves to the Lord *Warden*, by the Sword of whom and his Soldiers, I am now in Prison for my Honest and Innocency, and nothing else, and demand my Liberty of him; if he refuse print it, and do as God and Reason shall direct you; for it was his and his Soldiers Force, that fetch me out of my Bed the 26th of March, 1649, without all shadow of Law or Justice, and against the tenor of all their own Declarations, the particular Pages of which you may read in my following Letter to Mr. *Holland*, page 5, and by Force of Arms carried me to *White-hall*, and then to *Derby-haus*, before a Company of Men that in Law had no more Power to commit my Body to Prison, than so many Thieves and Robbers upon *Saints-bill* have, who by the Rules of their own Wills, (or in the second Edition of the *Piture of them*, I have fully declared) sent me by Force of Arms to the Tower: for all my short Eternity in this World.

But I entreat you seriously to consider, that I cannot advise you to make address to him as the General of the Nation's Forces, for he is no such thing: but is merely a great Tyrant, standing by the Power of his own Will, and a strong Sword, born by his Vassals, Slave and Creatures, having no Commission to be General, either from Law, the Parliament, or from the prime Laws of Nature and Reason.

Mr. Attorney. Read. *An Out-Cry of the Young-men and Apprentices*, page 3.

Page 3. *Our heart seem to us as obdurate, as the flinty Rock; as Savage and Inhuman, as if the Flesh and Blood, the Bones and Marrow of the People were become your Mear,*

Mr. Attorney. Stay, Mr. *Brougham*: The *Jury* will take Notice, that this is direct to the Soldiers of the General's Regiment, this speaks to them.

Clerk *Riddell*. Directed (August 29. 1649, in an Epistle to the private Soldiery of the Army especially,) all those that signed the solemn Engagement at *New-markes Heath* the fifth of June, 1649, but more especially to the private Soldiers of the General's Regiment of Horse.

Mr. Attorney. Now, read page the 3.

Clerk. Page 3. Your Hearts seem to us as obdurate, as the flinty Rock, as Savage and Inhuman, as if the Flesh and Blood, the Bones and Marrow of the People were become your Mear, as already it is in effect, and instead of Encouragement and Support to our true Friends, and real Relievers, (as least in faithful Desire and Endeavour) as shall stand in the Gap betwixt our Destroyers and Us, always; and means are used to impoverish, Destroy and Suppress them, and ill them to break and Vassalage the Spirits of all the English, which in all Ages have had the Pre-eminencies of other Nations, that there may not be so much of Gallantry or Courage left amongst the People, that one amongst them shall dare to assert or maintain their Freedoms. And a little below, if any do but Murmur and Complain, presently their Housles as with Furies, are Beset;

But, with armed Mercenary Janissaries, Guards and Sentinels set upon their Doors and Passages.

Mr. Attorney. My Lord, and you, Gentlemen of the Jury, you hear what Stuff this of Mr. Lilburn's is, yea, such Stuff as that it would make any Man loath to bear it: The last Clause of the Act is, if any Person not being an Officer, Soldier, or Member of the Army, shall Plot, Contrive, or Endeavour to stir up any Mutinies in the Army, or to withdraw any Officers or Soldiers from their Obedience to their Superior Officers, or to present Government; It is High Treason, you have here the several Books read to you, and the Calumny laid upon the Chieftain of them to stir the rest up to Mutinies against them, but they are very well known, and therefore nothing that Mr. Lilburn can say will stick upon them, to their Prejudice. But, my Lord, you see here, and you of the Jury, how he appeals from the Officers to the Soldiers interrogates, to know what they could do, and whether they will acknowledge they will own them, and not fight against them, and what Aid and Assistance they will give to him and his Friends, against their own General, and the rest of their Superior Officers; You see also what he calls that Noble General, that all the World doth Honour, and his Fame wrings through the World, and yet he calls him a grand Tyrant, Bounding by the Power of his own Will, and a strong Sword, a Destroyer of the Parliament, of the Laws and Liberties of England, you see what he calls the common Soldiers: Furies and Mercenary Janissaries, which none but Turks have. You have heard the several Charges proved unto you, for my part I think it is as clear as Noon-day. We have not raised any Advantage upon any slipping Words that have slipped from him, which we might have done, and I could have urged some more Witnesses, to have proved his Books, published by him, to publick View, though when he comes in the Face of the publick Court of Justice, he will not own them, which shew his Design to be the more dangerous; he will Write, Print, Publish, Befattern, and Reproach; yes, and raise Tumults and Rebellion in a Clandestine Way, but if we chance to Question him therefore, he will not own it, you see we have been fain to fetch it out of the Fire, and yet this is one of England's and its Liberties Valiant Champions.

Lieut. Col. Lilburn. You have done no more to me than the Scribes and Pharisees did to Jesus Christ, and in my dealing with you, I have but walked in the steps of my Lord and Master, Jesus Christ and his Apostles. For I am sure of it Jesus Christ, in his Pilgrimage on Earth, Freely, Openly and Publickly taught and declared himself to be the Son of God, the Messiah or Saviour of the World, that was Prophesied of, and yet when he came amongst the Scribes and Pharisees, and Pilate the Roman Goverour, who by Questions went about to insnare him, he confesseth nothing but faith, I speak openly to the World, I ever taught in the Synagogues and in the Temple whither the Jews always resort, and in the Secret have I said nothing, why askest thou me? ask them which heard me, what I have said unto them, behold, they know what I have

have said ; and when Pilate adjured him to Answer him, whether he was such a one or no, well saith he, thou sayest it : So say I, thou Mr. Prosecutor sayest it, they are my Books, but prove it.

Mr. Attorney. But I think here are enough, and too many, and therefore, Gentlemen of the Jury, if you Respect the Government of the Parliament, the Honour of the Council of State, the Honour of the Nation, or of the Army, or the Preservation of the Law of the Nation, you cannot say, but that the Prisoner is Guilty of such Crimes and Treasons, as he is now accused of and accordingly find him so, for it cannot be supposed that you will lay him in a single Balance, against the Honour of all the Powers in the Nation, and also the Peace thereof.

Fore-man. We desire the Act of Treasons to make use of.

Learn, Col. Lilburn. I beseech you, hear me a few words, they desire to have it along with them. Sir, with your Favour, I shall humbly crave Liberty to speak a few words, I shall keep me close to that, which is my Right and my Duty, and that is to the Matter of Law in my Indictment, there are many things put into the Indictment by the Testimonies of Witnesses now Sworn, that are pretended to be acted in several Counties, whether that be according to Law or no, I do not know, whether you will judge it so or no, but sure I am, if either those express Statutes, that I have already cited to the Jury, or the third part of Cooks Institutes be Law, I ought not to be Tryed for Treason; but by a Jury of the next Neighbourhood, in the self-same County, the Fact is pretended to be committed in, and therefore it is very questionable to me, whether my Indictment be Legal, for that it chargeth me with Facts of Treason, committed in three several Counties, and that being Matter of Law, I desire Counsel to argue that Point in the first Place, there are also a great many other Exceptions I have to make against the Illegality of the Indictment, and having particularised one, I humbly crave that which is my Right by Law, that I may have Counsel assigned unto me, you have said, you will do what shall become Ingenious and Understanding Men, and just Judges in it, and therefore I crave leave according to my undoubted Right, to have Counsel assigned to plead in Matters of Law to the insufficiency of the Indictment, and particularly, to that Point I have nominated. There are also a great many things arises out of the Matter of Fact, that will be Points of Law likewise, and some of them appear to be so, there was never two clear and positive Witnesses to one Fact Sworn against me, but to most of the particular Treasons, there is but one a Piece, and I cannot yield that to be Legal but questionable in Law which I desire Counsel to dispute : I know not any of all the Books fixed upon me, but the Out-cry that hath two plain Witnesses to it, and yet it is not Sworn that I am the Author of it, the State of the first is this, that I was at the Printers before the Copy was taken away, and that I gave one of those Books to a Soldier : to sum up the Notes of the Matter of Fact, that thereon hath been endeavoured to be proved, is to hard a task to be done by me immediately, and therefore I conceive it but just so far

you, to assign me Counsel, to agree with the Counsel against me, what are the Points of Fact upon the Proof, from which the Points of Law are to be deducted, and whatever you, that call your selves my Judges, may think of this, yet I hope and verily believe, that these my honest Fellow Citizens, that are the Gentlemen of my Jury, who have (thereby) at Men, the Issues of my Life and Death in their Hands, and will think it but a just and rational Motion and Request, and therefore before them again, I desire to have Counsel assigned to plead in Law, to the Errors of the Indictment, and also to the Law arising upon the Fact; this with a larger Privilege, was granted by one of your own brother Judges, to Major Rolfe last Year, as his Right by Law; and I do again appeal to Mr. Justice Nichols, then one of Rolfe's Counsel for the Truth of this, I pray speak, Sir, is it not true? *but the Judge sitting as if he had neither Life nor Soul*, Mr. Lilburn further said, I hope, Sir, it doth not enter into your thoughts presently to put me to an undigested, extempore Answer, to so large an Indictment as that is that hath been read against me, that it is impossible for any Man's Brain, if it were as big as the biggest Magazine in London, to carry it in his head; and, Sir, I hope you do not conceive that my Memory is of a greater largeness than the greatest Magazine in this City; you engaged unto me when I pleaded first to my Indictment, that you would not take Exceptions nor Advantage against me, for my Ignorance in the Formalities of the Law; I desire you to make good your Promise now unto me, and assign me Counsel to help my Ignorance, that so the Counsel against me and my Counsel may agree, as I have seen it done heretofore in the Case of Duke *Hambleton*, upon the Points of Fact, from which Law is to be deducted; and if you please to grant me this Legal and Equitable Favour, I shall think my self very much obliged unto you; without which Justice, I cannot conceive upon what Ground it can be apprehended I can go on, for my time and strength now it is so far spent, that I conceive you cannot think my Body is made of steel, to stand here four or five Hours together spending my Spirits to Answer so many as I have to deal with, and be able after all this, to stand to return an Answer to above five Hours Charge, and that upon Life, when it seems you will suffer me to mend no Blots; I hope you do not lie upon the catch to weary and tire me out, by putting more upon me than a Horse is able to endure, and then go about to hang me, because I through tiredness, want bodily strength and abilities to make and pronounce my Defence.

Sir, to my Apprehension, there does arise upon the Matter of Fact divers Disputes in Law; I beseech you therefore allow me my Right in Law, by assigning me Counsel to help me where I am Ignorant, and you shall see I shall do that which shall become an Ingenuous and Rational Man, and I will put my self clearly upon the Tryal of the Country or my Jury according to the Law.

Lord Keeble, Mr. Lilburn, This that you have heard, and that we have patiently sat to hear, and prepared a Stool for you to have sat

upon,

open, so here is given you that Liberty that in Body, should instruct you more than me, you have heard the fair Course that hath been taken in it; the Books, the Charge upon the Master they are but three, they are too hard for your Memory; the particulars of this you do not expect that the Jury should remember them; the Books are here, they have of them; but amongst them there are many more, but free your self from the Master of Rail, if you can, and those Books, and when you have free your self from the Master of Rail charged upon you; and then make it appear that from the Master of Rail no Dispute arises, and then if you can when the Master of Rail is clear, and how best advise, you shall have Counsel; and you shall have no Dispute to interrupc you, that to help you in what we may properly know of our Right to do; but if you do not first clear and make out this which is the Issue upon the Points, to answer the Master of Rail, we cannot allow you any Counsel: this thing that is to be disputed cannot possibly be much on your side, it will be but very short; for it is not possible I say, to be much in time, an confusion of your memory, to give an Answer to this particular Master of Rail; the first is the publishing of those Books, and the owning of them; and the next is the Books of themselves; but this must be first cleared, before you can have any Counsel assigned you at all.

Learn. Col. Libbey, I must confess it is a very hard Task for me to content with the present Power, whose Agents have free Liberty to lay against me what they please, and I am denied and that upon my Life, all the Privileges of an English-man, and with your Instructions and great Words, drawn on by my Ignorance to ensnare my self; and notwithstanding all your Promises to take no Advantage against me for my Ignorance in the Formalities of the Law; yet are the Penitillioses and Niceties thereof, more urged against me than they have been against hostile Enemies; and yet for my part, no Man can tax me for being in Hostility at any time against them in present Power; and yet upon my Life, I am denied that which I had, from these as my Right by Law against whom I have been in Arms, and fought against in the field, yes, and that which in a higher Nature than I desire, hath been acknowledged Just and Legal, by some of your own Brother Judges, but the last Year, which they have granted to some of my own Country men, Free-men of England, but this last Year in a higher Nature by many Degrees, than I plead for; There is Judge Nichols, that I understand was one of Major Rolfe's Counsel, and I understand from Mr. Maynard's own Mouth, that he and Mr. Maynard was by Baron Wild, assigned of Rolfe's Counsel in Case of the Highest Treason, that the Law of England ever knew, and that before the grand Inquest found the Indictment, and that Mr. Maynard, &c. had Liberty as Major Rolfe's Counsel by Baron Wild's Order, to stand in the Court, not only to hear the Witnesses Sworn, but also to hear the Words of their Testimony, then caused by the Judge to be given in open Court, and there being but two Witnesses to two Facts contained in the Indictment, Mr. Maynard upon the Allegation of the two Statutes,

of Edward the sixth, that requires two *Witnesses* to the *Proof* of every *Fact* of *Treason*, and that to be plain and clear, overthrew *Raleigh's* Indictment in *Law*, that it was never found, and so saved the poor *Man's* *Life*, who in *likelyhood* had perished, had it not been for the Ability and Integrity of his *Counsel*: And all this *Mr. Justice Nichols* knows, is very true, and that I have told you nothing about it, but what is just, It is true, I have read part of the plain *Law of England*, that is in *English*, but I am ignorant of that part of your *Law*, which is three times so much, as that which is in *English*, and that *Law*, or the practick part of the *Law*, is in *French* and *Latin*, which I have truly told you, I can neither read nor understand; therefore I humbly crave my *Privilege* and undoubted *Right*, by the *Law of England* (which in a higher *Nature* was granted to *Major Raleigh* as his unquestionable *Right*) to have *Counsel* assigned me, to help me in those things I am ignorant of, I meap the *Formalities* and *Borrow* of your *Law*. I beseech you, Sirs, do not put me upon *extrremities*, and upon *extraordinary* things, but consider among your selves, that *Righteous* *Rule* of *Jesus Christ*, and of the *Scripture*, so do as you would be done to: and do not put *Impossibilities* upon me, by overreaching by your *Power* all my *just Claims* and *Pleas* in *Law*, and require more of me than I am capable to perform. And therefore I beseech you, as you would approve your selves, to be a *Righteous* *Judge* before the *Eye* of that *God*, that sees your *heart*, and knows whether *Malignants* and *base* thoughts of *Malice* harbour thereon against me his *faithful Servant*: Do not cuntryly and designedly destroy me for my *Ignorance*, in the *ess* *trial* or *circumstantial* *Matter* or *Form* of that huge *Indictment*, that has so much *Matter* of *Law* in it, as it hath, and to take away my *Life* by denying me that which is the unquestionable *Legal Right* of the *Peerage of England*, the which if you will but allow me, I do not doubt but to come off clearly and freely.

Lord Keeble. Mr. Lilburn. You are now at a full *Point*, and this you have said now, you have said often and we have heard it, and that which you say now was enquired before.

Lieut. Col. Lilburn. Sir, it's your own *Law*, Sir *Ed. Cook* declares, I ought to —

Lord Keeble. Mr. Lilburn. I shall add this more to it, that you at this time, have here such a *Court*, which never any of your *Conditions* ever had in *England*, so many *Great Judges* of the *Law*.

Lieut. Col. Lilburn. Truly I had rather have had an ordinary one, Sir, I mean a *Legal* and *Ordinary* *Affizes* or *Sessions*.

Lord Keeble. But this you have, and this is to take off or prevent, that which you would do now, if there had been one *Judge* and no more, and if you had not had this great *presence* of the *Court*, you would have been *male-part*, and have out talked them, but you cannot do so here.

Lieut. Col. Lilburn. Truly, Sir, I am not daunted at the *Multitude* of my *Judges*, neither at the *glittering* of your *Scarlet Robes*, nor the *Majesty* of your *Presence* and *Harsh*, *Austere* *Deportment* towards me,

I bless my good God for it, who gives me Courage and Boldness, to Lord Keeble. That your Tryal is so Publick, or your Offence, is for this End, that all Men may take Notice, that you have fair play, and therefore according to Law, you ought to make your Cause in Manner of Fact clear, for that I must tell you again and once is as good, as if I had told you a thousand times over, unless you can clearly do that, you say nothing to it, if you will take that for clear Proof that hath been alledged against you, you may shorten your self; but otherwise make that Defence that you judge most sufficient to disprove the Raſt, for till that time, you are clear gone in Law, and no Counsel must or can be assigned you.

Lient. Col. Lilburn. I have been a great while yesterday pleading my Right by Law, for Counsel, and now I have stood many Hours to hear your Proofs to the Indictment. I hope you will not be so Cruel, to put me to a present Answer, when bodily strength is spent.

Lord Keeble. We know it as well as your self you were here and stood divers Hours yesterday, and to day you have done the like, but we come before you, and stand after you.

Lient Col. Lilburn. Sir, will you put a Man to more than a Horse is put to, or is able to go through with, the Righteous Man is Merciful even to a very beast.

Lord Keeble. We have been as long as you have.

Lient. Col. Lilburn. But, under favour, you have sat.

Lient. Col. Lilburn. You had that Liberty too, dispute no more, we must go on.

Lient. Col. Lilburn. I desire but a Week's time, to return you an Answer to your large Indictment: and if not so long, then give me leave but till to Morrow Morning, to consider of my Answer. I am upon my Life,

Lient. Col. Lilburn. No, you must dispatch it now.

Lient. Col. Lilburn. Then give me leave but to withdraw into any private Room, for an Hour to recollect my Thoughts, peruse my Notes, and refresh my Spirits: and hereabouts Judge Jermyn did whisper the Lord Keeble in the ear, and presently laid Judge Jermyn. It's against the Law to allow you any more time, the Jury stand here charged, the Evidence is given, you must immediately go on, or yield that for truth which hath been proved against you.

Lient. Col. Lilburn. Well then, if it must be so, that you will have my Blood Right or Wrong, and if I shall not have one Hour's time to refresh me, after my Strength is spent, and to consider of that which hath been alledged against me, then I appeal, (which he uttered with a mighty Voice) to the Righteous God of Heaven and Earth against you, where I am sure, I shall be heard and find Accels, and the Lord God Omnipotent, and a Mighty Judge betwixt you and me, and require and require my Blood upon the Heads of you and your Posterity, to the third and fourth Generation: immediatly after the uttering of which the Scaffold fell down, which was on the left hand, which occasioned a great Noise and

and some Confusion by Reason of the Peoples tumbling, but silence being made, the Prisoner was busy at his Papers and Books, being invited by Sheriff Pack to come out of the Bar, for fear he should have fallen with the rest, and so he might have lost his Prisoner.

Lord Keeble. *How came the Prisoner there?*

Lieut. Col. Lilburn. I went not thither, Sir, of my own accord, but by Mr. Sheriff's Invitacion, and if I am in a place where I ought not to be, blame Mr. Sheriff, and not me.

Lord Keeble. *Dispatch, Sir.*

Lieut. Col. Lilburn. Sir, if you will be so Cruel as not to give me leave to withdraw to ease and refresh my Body: I pray you, let me do it in the Court. Officer, I entreat you to help me to a Chamber-pot, which whilst it was fetching, Mr. Lilburn followeth his Papers and Books close, and when the Pot came, he made Water, and gave it to the Jury.

Lord Keeble. *Proceed, Mr. Lilburn, but be pressed for a little respite,* which was granted him with much ado, *as also a Chair to sit down upon,* but within a very little space the Lord Keeble said:

Lord Keeble. *The Court cannot stay for you, proceed on to Answer.*

Lieut. Col. Lilburn. Good Sir, Would you have me to Answer to impossibilities, will you not give me breath? if you thirst after my Blood, and nothing else will satisfy you, take it presently, without any more to do. But the Prisoner struggled out a little respite.

Lord Keeble. *The Court can stay no longer, take away his Chair, for I cannot see the Bar, and plead what you have to say, for it grieves very late.*

Lieut. Col. Lilb. Well, seeing I must to it, the Will of God be done; but his Brother being next to him, was heard to press him to pause a little more. No, Brother, saith he, my Work is done, I will warrant you by the Strength of God, I will knock the Nayle upon the Head, and so he went into the Bar, and set the Chair before him, and laid his Law Books open upon them, in order as he intended to use them, and being ready, said, Sir, I humbly crave the favour since it is my hard Lot and Fortune, at least in my own Apprehension, to have so much hard Measure and Injustice as I have, to know whether or no you will permit me, after that I have pleaded to a Matter of Fact, according to the Law of ENGLAND, that has been allowed to the Highest Treaytors in all the Books that I have read of, that I may speak in my own behalf unto the Jury, my Country-men, upon whose Consciences, Integrity, and Honesty, my Life, and the Lives and Liberties of the honest Men of this Nation now lies, who are in Law Judges of Law as well as Fact, and you only the Pronouncers of their Sentence, Will, and Mind, I say, I desire to know when I have pleaded to Matter of Fact, whether you will be pleased to give me leave to speak to them a few words besides.

Lord Keeble. *Mr. Lilburn, quietly express your self, and you do well, the Jury are Judges of Matter of Fact altogether, and Judge Cook says*

for, but I tell you the Opinion of the Court, they are Judges of Matter of Law.

Lieut. Col. Lilburn. The Jury by Law are not only Judges of Fact, but of Law also, and you that call your selves Judges of the Law, are no more but *Norman Intruders*, and indeed and in Truth, if the Jury please, are no more but Cyphers, to pronounce their Verdict.

Judge Jermyn. Was there ever such a damnable blasphemous Heresie as this is, to call the Judges of the Law Cyphers? Sir, I entreat you give me leave to read the Words of the Law then, for to the Jury I apply, as my Judges both in the Law and Fact.

Lord Keeble. We will not deny a Title of the Law.

Judge Jermyn. Let all the Hearers know, the Jury ought to take Notice of it, That the Judges that are Sworn, that are twelve in number, they have ever been the Judges of the Law, from the first time that ever we can read or hear that Law was truly express in England, and the Jury are only Judges, whether such a thing were done or no, they are only Judges of Matter of Fact.

Lieut. Col. Lilburn. I deny it, here's your own Law to disprove you, and therefore let not me but read it; it is a hard Case when a Man is upon the Tryal of his Life, that you will not suffer him to read the Law to the Jury, for his own Defence; I am sure you have caused to be read at large those Laws that makes against me.

Lord Keeble. But I shall pronounce to clear the Righteousness of that Law, whatsoever others, will pretend against it, that know it not.

Lieut. Col. Lilburn. Sir, under Favour I shall not trouble my self with any thing, but what is pertinent to my present Purpose; here is the first part of *Cook's Institutes*, it is owned by all the Lawyers that I know, never heard of in England, for good Law.

Lord Keeble. If you can convince us, that Matter of Law does concern you the Jury, you say something.

Lieut. Col. Lilburn. Sir, I have been shuffled too much out of my Liberties already, give me leave to read but the Law to the Jury, I will make use of nothing now to them, but your own words, and when I have done, I will leave my self to them, and the guidance of God upon their Conscience; and having the Book open in his hand, he said in the first Part of *Cook's Institutes*, Sect. 366 fol. 226, 227, 228. in his Exposition of *Ploydyn*, bath these Words.

Lord Keeble. Have we dealt so fairly with you all this while, Pray, I am confident, those that are Quotations there, are not for your Purpose; but I thought how good a Lawyer you were, for to set *Cook's Commentaries* upon *Ploydyn*; when there is no such Book or Commentary: go to your Matter of Fact, which is clear, but for this, let it fall down, and leave your self, and trouble your self no more with *Cook*; he has no Commentary upon *Ploydyn*. But Mr. Lilburn press to speak.

Justice Jermyn. Hold, Sir.

Lieut.

Lient. Col. Lilburn. What will not you allow me Liberty to read your Law? O Unrighteous and Bloody Judges!

Judge Jermyn. By the Party of your own Mind, you would puzzle the Jury, we know the Book a little better than you do, there is no such Book as Cook's Commentary upon Phoyden.

Lord Keeble. Sir, you shall not read it.

Judge Jermyn. You cannot be suffered to read the Law, you have broached an erroneous Opinion, that the Jury are Judges of the Law, which is enough to destroy all the Law in the Land; there was never such a damnable Heresy broached in this Nation before.

The Cryer. Cries out, Hear the Court.

Lient. Col. Lilburn. Do your Pleasure, then here I'll dye; Jury take Notice of their Injustice; but seeing they will not hear me, I appeal to you, and say, it is an easy Matter for an able Man than I am, in so many Interruptions as I meet with, to mistake Phoyden for Littleton; I am sure here in Cook's Commentaries upon Littleton, and these be his Words, In this Case the Recognitors of the Assize may say and render to the Jurors their Verdict at large upon the whole Matter, which I am sure is good Law, forasmuch as we see it continually done in all Actions of trespass, or assault, where the Jury doth not only Judge of the Validity of the Proof of the Fact, but also of the Law, by assigning what damages they think is just.

Lord Keeble. I am sure you are in an Error, in a gross one, as possible a Man can be in, this is so gross, that I thought it could not have come from Mr. Lilburn, that professeth himself to be a rational and knowing Man.

Lient. Col. Lilburn. And in another Place, he said: For as well as the Jurors may have Cognizance of the Lease, they also as well may have Cognizance of the Condition. And further there, Cook saith, Here it is to be observed, that a special Verdict, or at large, may be given in any Action, and upon any Issue, by the Issue General or Special. And in Section 368. Littleton, hath these Words, Also in such Case, where the Inquest may give their Verdict at large, if they will take upon them the knowledge of the Law, upon the Matter they may give their Verdict generally. Cook's Words upon it are fully to the same Purpose, who saith, Although the Jury, if they will take upon them (as Littleton here saith) the knowledge of the Law, may give a general Verdict. I am sure this is pertinent to my Purpose, and now I have done, Sir.

Lord Keeble. You have spent a little time, but you have done yourself no good, I thought you had understood the Law better than I see you do.

* Yes but there was at Redding, when Colonel Martin after they were Sworn, caused all the Jury before the Judges sitting upon the Bench, to put on their hats, as their Right; being they where then the Chief Judges in the Court, and the other Inferior to them.

Lieut. Col. Lilburn. Now, Sir, as to Matter of Fact, according to your own desire, seeing you will have broke your Promise, and will allow me no Counsel, but lie at catch with me, I shall come to it without any Preamble. The Statute of the 1 Edward 6. Chap. 12. (I desire the Jury may take Notice of the Statutes) and the 5. and 6. of 24. the fifth Chap. 11. here's the Statute Book, which doth expressly declare, That no man shall be condemned for Treason, petty Treason, nor any such like Crime, but by the Evidence and clear Proof of two legal and sufficient Witnesses. Sir Edward Coke in his third part *Institutes*, Chapter of High Treason, is absolutely of the same Opinion, fol. 12. in this Branch, says he, four Things are to be observed. First, this Word (Proveablement) proveably, that is upon direct and manifest Proof, not upon conjectural Presumptions or Inferences, or Strains of Wit, but upon good and sufficient Proof of two Witnesses, and this is folio 12. And here in the Adverb, (Proveablement) proveably hath a great force, and signifieth a direct and plain Proof.

And Secondly, This Word (attain'd) necessarily implyeth, that he be proceeded with, and attainted, according to the due Course and Proceedings of Law, and not by absolute Power, or by other means, as in former times it hath been used.

And folio 24. Chap. Petty Treason, he saith, It hath been holden, that upon the Tryal of Misprision of Treason, there must be two Lawful Witnesses as well upon the Tryal as the Indictment, as it was resolved by the Officers in the Lord Lumley's Case. Hill, 14. Eliz. reported by the Lord Oliver under his own hand, and in the Margin he hath this Note upon it, that this is the last Resolution of the Judges upon it: And a little below, the same folio, and folio 25. he saith, Therefore upon the Indictment, which is in manner of an Accusation, by the Statutes of 1. Edward 6. Chap. 12. & 5. & 6. Edward 6. Cap. 11. Two Lawful Witnesses as required. And in folio 240 he hath the same, his Words are these: Attain'd of T R E A S O N, &c. ought to be upon plain and direct Evidence before it is said (for if the party be executed, Restitution may be had of his Lands, but never can be had of his Life: now I have done, Sir. Lord Keeble. I hope the Jury hath seen the Evidence so plain, and so fully, that it doth confirm them to do their Duty, and to find the Prisoner Guilty of what is charged upon him.

Judge Jernyn. This that you have said makes much for the Jury. Lieut. Col. Lilburn. We shall see that by and by; but I shall proceed to Answer your Proof to the Indictment, and that in the same Method that your Witnesses Swore: And therefore, Sir, in the first Place, the first, which is T H O M A S N E W C O M B, the P R I N T E R, swears in these Words: That I was present with C A P T A I N J o n e s, from whose hand, he says, he received the last Sheet of the Book, called *Our-Cry of the Young-men and Apprentices of L O N D O N*; but, Sir, Captain Jones agreed with him for the Printing of it; and not I; for that particular he doth not in the least accuse me, neither doth he in the

the least accuse me in any manner in the World of being the Author of it : And that I did any more at his House, but take away a single Sheet of it before it was Corrected, which, says he, I brought away with me : In Answer to whose Testimony I return this, and I earnestly entreat you, Gentlemen of the Jury, to oblige it well, and therefore in the first Place he is but a single Testimony to this : But secondly, I answered, that he confesses moreover, that before he had compleated that Sheet that he received from Captain *Jones*, he was taken, and not only he, but his Forms also was taken from him : so that by his own Confession, that Copy that was brought by Captain *Jones* when I was present with him, proved shortive, it was never wrought. For, he says, it was taken before he had perfected it, and to my knowledge they had it in their possession : so that it clearly appears, it was never perfectly wrought off, and therefore the Books were never perfected : Therefore I hope that it will not be Treason in me, being a Free-man of *England*, to walk the Streets with my Friend, and to go into a House with him where he hath Business to do, admit it be a Printing house, where he intends to have a Sheet of Paper Printed, his Affairs, Business, or Actions are nothing to me, neither are they now in the least laid unto my Charge : And if they were, as they are not, yet that Sheet miscarried, and was taken before it was perfected : so that truly, Sir, you may go seek the Printer of it, for you see that miscarried that Captain *Jones* delivered to the Printer in my Company, and that Sheet which he saith I had away, was an Uncorrected one, which could serve me for no other use, but w^t Paper, and cannot be adjudged to be a true Copy of that which was contained in the Indictment : neither doth he or any other Swear, that at the Printer's they see, or know where was done the Title of that *OUT-CRY*, contained in the Indictment : So that for any thing the Jury knows, the first part of that Book hath no dependance upon the Sheet that was spoiled, and not brought to maturity in Master *Newcomb*'s hand, as he himself upon his Oath declares : so that truly, Sir, in Law Mr. *Newcomb*'s Testimony provea nothing at all against me, as to that before-mentioned and contained in the Indictment, and therefore you, Gentlemen of the Jury, my Life is in your Hands, I beseech you take Notice, that in all his Testimony, there was not one word that he declared to accuse me to be the Author of that Book, or that my Name was to it : for you shall find the Name of them that own it, so that I think his Testimony is to it, and is not worth a Shew.

In the next Place there were three Soldiers, viz. *John Took*, *Thomas Lewis*, and *John Skinner*, that Swear against me, the substance of all their Testimonies centers in one: and *John Took* in the first place saith about seven Weeks ago he met with Lieutenant Colonel *John Lilburne* in *Fry-lane*, where *Lewis*, knowing of him, gave him a Salute: and then being glad to see him that he was well in health, and the like, one Friendship went to drink a Cup of Beer together at the *Red-Cross* in *Newgate-market*, where he saw a Book called the *Apprentices Out-Cry* given

given unto Mr. Lewis, and he heard these Words uttered by Lieutenant Colonel *Lilburn*, You Soldiers are those that keep us in Slavery; The second Witness being *Thomas Lewis*, saith, That the 6. of December, or September, for so was his Words, he met me in *Joy-lane*, and took acquaintance of me, asked me how I did, and I thank'd him: and he further declares, that he was very much refresh'd to see me, that I was well, and in health, and was glad to see that those things that were given out of me, by common Fame, (that I was kill'd or dead, that they were not true, therefore he being my Old Acquaintance as he saith, we went to drink a Cup of Beer together; and, says he, (as he remembers) Lieutenant Colonel *Lilburn* asked him if he had seen a Book called the *Apprentices Out-Cry*, and, he says, no, he had not seen it, bne he had heard of it, and was thinking to go and buy one of them, for that he longed to read it, and heard it was publickly Sold, and, says he, Lieutenant Colonel *Lilburn* said, he had one which was given him, and if he pleased he would give it me, which he thankfully received, and afterwards we staid a little time to drink a Cup of Beer, and had some Discourse, but he doth fix no Evil upon me, that fell from me in that Discourse, neither doth he say that I did stir him up to Mutiny, or to make Division in the Army, only, he saith, I told him, that if he went to such a Man, whose Name he hath forgot, it is possible he might buy some more of them, for they were publickly Sold all over the City; so that you, Gentlemen of the Jury, may take Notice that he declares the things by common Fame publickly Sold, and one of them, he says, was given to me, and I gave it to him. Truly I hope the Jury hath more Conscience in them, than to go about to take away my Life for giving away a single Sheet and an half of Paper, that no Man Swears I was the Author of, or the Causier of it to be Printed and Published; But the most that can be fixed upon me, is, that I had one of them given me, and I gave it to a Soldier, my familiar Friend, who had a great Desire to see it, and was going to buy one of them, being publick up and down *London* at that time, which is all that he doth Charge upon me; only, he says, further, that there was a little Discourse: but his Testimony doth not reach to accuse me of any Evil or Malicious Counsel given them, or any Aggravations of Spirit, as though I did incense him of them against their Officers or Fellow-Soldiers, thereby to stir them up to Mutiny and Rebellion. For truly I have made it my Work, for to be as sparing in my Discourse as could be, in the Company of any belonging to the A R M Y; yea, and to shun coming nigh the place, if I can avoid it where they are: and he saith I had no aggravating Spirit within me, nor uttered any Provocations to make them rise in Mutiny against their Officers, and there is none of them all that does in the least fix that Book upon me, to be mine, as the Author of it.

Only, he saith further, that upon his declaring he longed to see the Book, that Lieutenant Colonel *Lilburn* told him that such a Man, whose Name he hath forgot, might possibly sell them some of them if they had

a mind to them or to get some of them, and truly I do not believe that Treason.

Further, he says, all the worst Discourse I had with them, was, that I asked them a Question, which was, when they had any Pay, and they told me they had not had any Pay in five Weeks, and that was the worst of all, here proceeded from me no aggravating Expressions upon it, or Martinous Provocations, but truly that this Discourse shoud come within the Compass of Treason, to ask my Old Acquainrance a Question, that had often times visited me, when I was the Lords Prisoner in the Tower, or to drink a Cup of Beer with him, or give a Sheet and a half of Paper, that was publickly sold, Truly I hope there will be no Righteous Jury in the World, that will give a Judgment against me for Treason therefore, no, I hope for more Righteous Justice, from a Jury of Citizens of London, whom I hope to find Men of Conscience and Judgment, yea, of such Righteous Judgment, as that they will abhor to go about, to take away my Life, and my Blood, and lay the Blemish and Stain of Treason upon —— me and my Posterity for ever, upon such a thing as this is, and this is all, and the utmost of all, that the Evidence done witness against me. Then in the third Place, there was John Skinner, who was the third: and he says, the same in effect and no more, and therefore I need not to go upon that any further, but shall leave it I hope to the enlightened Consciences of my Jury, my Fellow Citizens of London: in the next Place, the second thing laid to my Charge, is the *Salvia Libertatis*,

delivered to the Lieutenant of the Tower, as he says, *The Lieutenant* Now truly the Lieutenant of the Tower is but a single witness to this, and the Law saith positively, there *Testimony*. shall be two Legal Witnesses, to prove every Fact of Treason, Whole Testimony or Evidence ought to be

as clear and evident as the Sun at Noon-day, without any conjectural Presumptions or Inferences, or Strains of Wit, and truly the Lieutenant is but a single Witness at most. I should be loath to reproach or bespatter the Man, yet I must say this, being upon my Life, that he is not only a single Witness, but a Gentleman, in whose Custody I was Prisoner contrary to Law, who kept me Prisoner in times by-pass, above twelve Months together at the House of Lords illegal Command contrary unto Law and Justice, for which above a Year since, I did commence at the Common Law an Action of four or five thousand Pound against him, as I did also against Colonel *Tibbourn*, that I have seen upon this Bench, fitting as one of my Judges which I think, is not Equal nor Just, nor Legal that he with whom I have a suit of four or five thousand Pound depending, when thereby my professed Adversary should be one of my Judges, and therefore I desire he may be commanded off the Bench, and withdraw as being my professed Adversary, and therefore in Law uncapable to be my Judge, and truly having the same Action depending still again the present Lieutenant of the Tower, before the Judges of the King's Bench, for his detaining me in Prison, above a Year together, contrary to Law,

be is thereby in the Eye of the Law, my professed Adversary, and therefore in Law cannot be admitted, as a competent Witness against me, upon my Life, yet the Lieutenant of the Tower doth not in the least Swear that the hand is mine, or that he did see me write it; but only, he saith, that I did deliver such a Paper to him; but he is but a single Witness, and so, I say, by the Law of the Land, not Valid or Good, but his Testimony is clearly gone, and wiped off, as also all things that doth depend thereupon; There is besides five or six Witnesses produced to several Charges; but the Law expressly saith, that there must be two plain and clear Witnesses to every particular Charge, or Fact of Treason, that must make away my Life, and this is your own Law, and therefore he is but a single one, and therefore Invalid and altogether not Satisfactory, or binding; and then beside, which is considerable, truly I think the Tower of London, in the Place where he liveth, I gave him those Papers, is not within the Jurisdiction of the City of LONDON, and how I should come to be arraigned by a Jury of my Fellow Citizens here in London therefore, against whom I must confess that for my part, I have nothing for their Benefit and Integrity to object, I know not, for I know not the Faces of any two of them, and therefore impossible for me to say any thing against them; I say, I know not how by a London Jury I can be tryed for a Fact fixed upon me, to be committed in Middlesex. I beseech you, Gentlemen of the Jury, mistake me not: For I have nothing to accuse you of, and I hope you will be so Conscientious and Tender in the Tryal of me for my Life, that you will put your Case as my Case, and do by me as you would be done unto by me, if you were in my Case and Condition. And the Righteous God of Heaven and Earth direct you so to do: and therefore the Lieutenant of the Tower being but a single Witness at most, and in Law not a competent one neither, being my professed Adversary, that hath most illegally kept me in Prison, for which I have commenced long since my Action at Law for my Legal Reparations against him; I say, therefore in the Eye of the Law, his Testimony sticks not; and I hope in the Righteous Opinion of my Jury, can do me no harm; and if so his Testimony be Invalid, then the *Salva Libertate* can not reach me, to do me any hurt, but it and all those my pretended Books called by my Name, are all washed away and gone, and my Adversaries must go seek new Authors for them, or at least procure new and better Testimony to prove them mine, for that which they have produced hitherto, is worth nothing. Then the next is *Thomas Daffern*, and he saith, that the twelfth of August 1649. *John Daffern's Testimony*, he met with Lieutenant Colonel *Lilburn* upon the Bridge, as he was going home to visit his Sick and Distressed Family, and he went back with him, to his House in Southwark, at Winchester House, which I am sure is not in London; And therefore at Guild-hall in London, by a London Jury in Law cannot be tried; for he positively saith, that at Winchester House in Southwark, which is in the County of Sarry, Lieutenant Colonel *John Lilburn* gave him a Book, to carry to Colonel

Lyres, a Prisoner at *Warwick-Castle*, but he does give in no Testimony at all that it is mine, or that that Book was Lieutenant Colonel *Lilburne's* Book, of his making or penning, but a Book he gave him: and that is all he says, which is no more but that he received a Book at *Winchester-House* in *Southwark*, from the Hands of Lieutenant Colonel *Lilburne*, to carry to Colonel *Lyres*, now a Prisoner at *Warwick-Castle*. Now truly he is but a single Testimony, and he Swears nothing, particularly as to me, and besides, what he Swears is to a Fact done in another County, and therefore his Testimony is not worth a Straw, it's gone, it's Invalid in Law, it signifies nothing, it is not so good as a Spider's Web; by Virtue of which the Marshal's Testimony and the Governors of *Warwick-Castle*, as also Colonel *Parfey* need no other Answer from me, but to Pity them for the long Journey they have made so no purpose.

The next thing charged upon me is the Preparation of *The Lieutenant*, to an *Hue and Cry* after Sir Arthur *Hallrigge*, to of the Tower's which the Lieutenant of the Tower says, that Lieutenant Second Testi- Colonel *John Lilburne* gave him one of those Books in the Tower: which truly I am confident is in

Middlesex, and truly I conceive under Favour, it will be a Point disputable in Law, that I should be tried for my Life in this Place; admitt there were a thousand Witnesses to make it good, that the Lieutenant of the Tower had one of them from me, either in the Place he formerly named, or at his own House: For that Fact was done in the Tower, that is out of the County of *London*, and so not Tryable by a Jury of Citizens of *London*; but he further saith, whether the Book that he now has be the same that he received from the Hands of Lieutenant Colonel *Lilburne*, that he is not able to depose. Then the rest of the Witnesses that do depose against me in Relation to the *Hue and Cry*, and

James Nutley, and *Edward Raddon*, both of them *Mr. Pridgeon's* Servants; and the most that they say, is that when I was before their Master, upon the 14. of September, 1649, at his Chamber in the *Temple* to be examined by him, they say, they saw me deliver a

Preparation to an Hue and Cry after Sir Arthur *Hallrigge* to this Master's hands, and tell him, that that was mine, and I would own it saving the Printer's *Errata's*, which says, the Lieutenant of the Tower upon his Oath, I expressed to be many.

In Answer to which, I say, I do not know whether the *Temple* within the Liberties of *London* or no, and if it be not, I know no ground in Law, wherefore a *London* Jury should try me here: but more fully, I say, for any thing the Jury knows, or for any thing the Witnesses Swear, the Printer's *Errata's*, which are many, are all and every of those Clauses that Offence or Exceptions are taken against, for not one of those Clauses which you except against, are not proved to be the Printer's *Errata's*, and therefore there is no Validity or Weight in those Testimonies also, for they do not prove in the least that any six Lines of the Book is mine, all

of them say, that I owned no more of the Book than was free from the Printer's Errata's. And the Lieutenant of the Tower Swears that the Clause was added, which are many: And therefore you, the Gentlemen of the Jury, I appeal to your Consciences, and to your Judgments, and the Lord set it home to your Understandings, that you may not be Guilty of the Blood of an innocent Man, by Partiality, Fear or Affrightment of Spirit; for in Law, Equity and Justice all their three Testimonies put together, has no Validity, no Strength, nor Force in them, and so much for that.

The next thing fixt upon me, is the *Legal Fundamental Liberties of the People of England, revived, asserted and vindicated*, and truly all that's brought to prove the Legal Fundamental Liberties of England to be mine, is but meerly the Relations that are in the fore-mentioned Books, for I do not remember, (nay I am sure of it,) that there is so much as a single Testimony that does give in any Evidence against me that it is mine, and therefore I can answer to that nothing more than what I have said already. The Testimonies all being Invalid at least in the Eye of the Law; and therefore that's gone too, and blown away as Chaff before the Wind.

Lastly, for the Agreement of the People, truly that's dated the first of May, 1649. And truly for ought I know, and I am sure of it too, it is before the date of any of those Acts upon which I am indicted for my Life, and therefore not within the compass of it: for Paul that great Apostle said, and he that spoke by the Spirit of God that dwelt within him, and to whom it was given in an extraordinary manner, that so he might thereby be enabled to write the infallible Truths of God, said where there is no Law, there can be no Transgression, but that Agreement was in being and publickly abroad with a Legal Imprimatur to it, before any of the Acts, upon which I am arraigned, had a being, and therefore admit it should be granted to be mine, yet it can be no Transgression or any thing prejudicial in the Eye of the Law unto me, but besides, there is not any Testimony at all, that so much as lays it to my Charge to be mine, and therefore it pinches me not, nor does any of all the rest of your Charges, and besides all that I have already said in my own behalf, to shew in Law the Invalidity, and Insufficiency of all the Testimony, you have produced against me; I add this, by way of Addition to it, that there hath not been so much as one single Witness or Testimony to prove that the Books laid to my Charge, are rightly and truly dated, and not *post* dated, which if any of them or all of them should be, admit the Proofs were sufficient in Law, yet unless the Days of them be firmly proved to be exactly according to the Original Copies, and not *post* dated, for any thing the Jury knows, they might be made and writ before ever the Acts, they are said to transgress, had a being. And therefore if there were so many Testimonies in Law, to prove the Books mine, (which there is not in the least) yet, I say admit, there had been a thousand Witnesses to the Proof of every one of those Books, yet notwithstanding

standing in the Eye of the Law : I leave it to the Consciences of my Jury, whether I be not free in that particular, seeing there is none Swears punctually and positively to the Dates of them ; but to put all out of danger, as I deny nothing, so in that particular, I do not own a jot, a Line, a Word, a Syllable, of any of them. Now, Sir, having done so far as I have, and clearly discovered to the Jury, and all that hear me this Day, that all the Proofs alleged against me, does not stick in the least any Guilt upon me, truly I have clearly answered, and invalidated all the verbal Proofs, according to the clear Letter and true Intention of the Law, I have no more to say to all the Evidences, that have been read in Books against me, I leave it to the Consciences of my Jury, believing them to be a Generation of Men, that believe in God the Father, and believes they shall have a Portion in the Resurrection of the Dead, and stand before the Tribunal of the Lord Almighty, to give an Account unto him the Lord of Life and Glory, and the Judge of all the Earth, of all there Actions done in the Flesh ; I leave it to their Judgments and Consciences to judge Righteously, between me and my Adversaries ; and the Lord of Life and Glory, to judge Right between me and you, that in all those things in your long Scrawl you pretend me Guilty of ; I hope I have so clearly and fully answered all and every of your Proofs, that not any one thing sticks ; and to their Consciences I cast it ; hoping that they do look upon themselves, as standing in the presence of him that sees their Hearts, and knows now whether there be any Malice in them towards me or no, which for my part I do not believe there is, for I profess I know no wrong I have particularly done them as Men, or generally as English-men ; my Conscience is free and clear as in the sight of God, and hope of all unbiased Men ; and to my knowledge I never see the Faces of any two of them before this Day, and therefore intirely as an English-man, that Loves and Honours the good Old Laws of England, and earnestly Desires and Endeavours, and Struggles for the Preservation of Justice and Just Magistracy, which I wish with all my Soul may be preserved ; and therefore having suffered much for the Preservation of the Common and just Liberties of England, to their Consciences, and to their Judgments, I leave both this Matter, and the constant Series of all my Actions in this my Pilgrimage, and Veil of Tears here below.

Lord Keeble. Mr. Lilburn.

Lieut. Col. Lilburn. Your pleasure, Sir?

Lord Keeble. Nothing, Sir, but this, our Consciences are before God as well as your's, and therefore you need not speak now.

Lieut. Col. Lilburn. Sir, I have only two or three words more, which I have spoken to you, but these Men that are my Jury and Judges, in whose Hands only are the Issues of my Life, have not as yet heard them, I pray you give me Liberty according to your Promise, to go on without Interruption : You, Gentlemen of the Jury, I have many material things to produce Witnesses unto for my Justification, but no time in the least

will

will be allowed me, as you see, to produce them, which I ought by Law to have had, especially considering I have been lockt up so long close Prisoner, and have nothing for which I was first Imprisoned laid unto my Charge; and have so High, Potent and Mighty Adversaries as I have; that truly every Man is shy of me, for fear he may come in Trouble for coming near me; and therefore I have but two or three words more to speak to the Jury, I beseech you let me freely go on.

Lord Keeble. Make them thirty to your Defence, and you may speak them.

Lient. Col. Lilburn. I shall by God's Assistance, I shall keep close to my Defence: Now, Gentlemen of the Jury, I think I have sufficiently pleaded for my self at this present, and that to clear up fully unto your Judgments, unto your Understandings, that by the Law of England there is not so much as any one Fact proved against me; for the Law is express, that to every particular Fact of Treason, there must be two sufficient Witnesses, nor by Constructions or the like, upon which Score and Pleas, that Gentleman Mr. Nichols that sits there as a Judge, and Mr. John Maynard, saved Major Rolfe's Life, being to be arraigned for the Highest of English Treason, before Baron Wild: Now, Gentlemen, notwithstanding what I have said, any thing shall yet stick upon your Spirits, I shall intreat you to consider the Intention of the Law of England, it is repeated several times in Sir Edward Cook's Institutes, it is a Maxim in the Law, I have it here in the third Part of his Institutes fol. 6. *Ex aetate non facit reum, nisi meum sit reg;* Sir, if you please to do me the Favour but to English it, and explain it for the Jury; for though I understand the Substance of it, yet I am not exactly able to English the Latin, but only to understand the Sense of it; I conceive the Sense of it is this; it is not the Act, but the Intention of the Mind, that declares Guile; but therefore as in reference unto that I shall say no more but only this to them, that the constant Series of all my Actions from my Mouth hitherto, have manifested that I have with an affectionate and compassionate English Spirit within me, that hath put me forth for many Years together, really to endeavour the Prosperity and Good of the Land of my Nativity; and not its Mischief and Destruction: and that hither-to-ward, in all my Contests, I have had the Law, and the declared publick Justice of the Nation of my side; having never done any Mischief to my Country, unless it be a Mischief to oppose great Men's Wills; I have now been seven Months in Prison I know not wherefore, although Originally I was committed to Prison pretendedly for Treason; and both the Acts upon which now I am indicted, hath been made long since my first Commitment, there is not any one Syllable of all those things for which I Originally in general, without Accuser or Prosecutor was Voted a Traytor by the present Power, and for which I was proclaimed a Traytor throughout all the Market and great Towns in England six Months ago; there is not now I say, any one of those things laid to my Charge; but truly I have been laid into Prison for nothing; as by this Day's Work clearly appears, by the Men

in present Power, unto divers of whom I have often sent to know what is they require at my hands, and have also from time to time, declared my ready willingness to compose and end all differences that concern me, having proffered again and again, to refer my self unto the final Determination of four of their own Members, finally to end and determine all differences betwixt them and me, whereof I was willing that Judge *Rigby* should be one of them, a Gentleman (though now a *Judge*) have found very honest and faithful, and to whom I have been much obliged to, for many hearty Favours I have from time to time received from him ; I say, I have sent to him and Colonel *Martin* and abundance of the Members besides, from time to time ; to some of whom have written, with some of whom I have spoken to ; I say, I have sent many Messages with the earnestest desire in the World, that if I had offended any Man in the House, that if he would be pleased fairly and friendly to refer it to the final Judgment and Determination of four Members of their own House, and would stand to it ; and let all the World judge whether or no this Proposition was not suitable to a Christian, and suitable to an honest Man, yea, to a Man that judged himself in the strictest scrutiny of his own Conscience to be free and innocent in his own Soul, and in his own Conscience, from all Guilt, Crimes or Treasons, or else if had not, I would not have put my self upon the judgment of those that were engaged in Interest and self Preservation against me ; and yet if the things that they imprisoned me for as a Traitor in general which hear nothing of this Day, which is wonderful strange Law and Proceedings to my Understanding : But besides, Sir, under Favour, I have not only done this, but I have yet thousands of my Friends : I will undertake I could produce ten thousand of Old and Young, Males and Female Citizens and Country-men, Men of Honesty and Integrity, that have the common Cause always adhered to the Freedoms of the Nation, that have petitioned the Parliament several times ; yea, from time to time with abundance of rational and fair Petitions, and truly stated my Case them, and acquainted them with my Condition, and with the rest of my Fellow Prisoners, and earnestly begged and intreated of them that they would not be hasty in condemning and destroying me, before they heard me and afforded me a Legal Tryal, from first to last, according to the due Forms and Proces of the Law of *England* ; and yet for all this, I came before you, I never saw Accuser, or Prosecutor, nor Indictment nor Charge, nor nothing in all the Earth, Legally to demonstrate me much as a supposed Offender ; and yet for all this, no Satisfaction in the World would be received ; notwithstanding in one Petition they desired that they would be pleased, seeing they were incensed against us, and that they had taken Indignation against us, they did not desire to justify us any thing we had done ; but in regard to their own Knowledge, we had been all four faithful, zealous, and serviceable Instruments in the common Cause of the Nation ; in which to the hazard of my Life an hundred times over, I have ingaged for them, with my Sword in my hand, w

as much resolution, and as much faithfulness, as any Man on Earth ever
served a Generation of Men, having never betray'd my trust, or ever
given any Inspicion in the least that I would, or ever so much as frag-
gered in my Principles, nor ever so much as disputed any Command,
though never so desperate that was laid upon me ; no, nor ever turned
my back in the field of their Enemies in any of their Services, so long
as it was possible for a Man that had any Brains left him to stand ; but
was one of those seven hundred Men at *Bransford* (my self being there a
Volunteer, without any particular Command) that with dint of Sword
and Pistolet, it out against the whole Body of the King's numerous Army for
many hours together, and never stir'd off the ground, till both Horse and
Foot had as it were incompt us round, and till we came to a readines
to beat out one another Brains with the but End of our Muskets, where
I was taken a Prisoner, and led Captive in a most Barbarous and Dis-
graceful Manner to *Oxford*, where I suffered abundance of unexpressible
Hardships, and underwent the Shock and rid the Storm as stoutly as any
Man there ; although I believe I was as much courted by Messages from
the King himself, as any, or all the Parliament Men that were there my
Fellow-Prisoners ; for there I have had no less than four Earls and Lords
in one Day sent unto me, by Him, to draw me over unto them ; but I
bless God that kept me upright, and intire unto my Integrity and Prin-
ciples, and suffered me not to turn my back upon them : But, Sir, not-
withstanding all this (I say) our Friends desired of the Parliament, that
they would be pleased to take sufficient Security according to the Law,
for our forth-coming at all-times, to Answer such things as shall be laid
to our Charge ; but their Petitions were contemned, themselves slighted
and abused, and by no means could get any satisfactory Answers to them.
Sir, I speak here to you, and to my Fellow-Citizens the Jury, as in the
Sight and presence of God, that knows I ly not : and if you find me to
be in a ly, in the least, in what I have said, then never Credit Man of
my Profession again for my Sake : Truly, Sir, I say, they desired them,
that we might be released from our Imprisonment, putting in Security
to Answer whatsoever Legally could be charged upon us, only they c. a. v'd,
that we might have the same Legal Privileges, that they demanded at
the Hands of the King, when he impeached the Lord *Kimbolton*, and the
five Members of High Treason ; which Privileges is easily and plainly to
be read, in their own first *Primitive Declarations*, pag. 38, 39, and 76,
77. Now abundance of the Free-People of this Nation, in my behalf, ha-
ving craved the same Privileges that was demanded for the Lord *Kim-
bolton*, and in the behalf of the five Members, and the like, all that they
desired was no more, but the same Privilege that they craved for them,
which was, that I might have the due Process of the Law, from first to
last ; and I and my Accusers come Face to Face at the beginning before an
ordinary Magistrate ; and if they had any thing to lay to my Charge,
that they would Legally according to Law proceed with me ; but I say
none of these would be granted, although themselves in several of their

Declarations, have declared all these things to be the common Right of all or any of the People of England, as well as Parliament-Men ; yet notwithstanding all this, they continued in their licensed Condition against me, and would come to no Legal nor Fair Issue with me, nor let me in the least know what was the End or thing they required of me ; or what was the thing that would satisfy for the extenuation of their Indignation against me ; but contrariwise dealt Harder and Harder with me, in laying new and fresh insupportable Burdens and Provocations upon me : For after all this they caused me to be lockt up clole Prisoner in the heat of Summer, set Centinels Night and Day at my Door, denied me the Acces of my Wife and little Babes, for a certain Season neither Wife nor Child could so much as set their Feet within the Gates of the Tower, to see me, or Comfort me in my Distress.

Lord Keeble. Mr. Lilburn, is this your Defence ?

Lient. Col. Lilburn. I beseech you, as either the Law, or Fear of God, Conscience or common Honesty dwells within you, let me have a little fair play to go on to speak for my Life without interruption, I shall not trouble you long, for I have almost done.

Lord Keeble. When your Master of Fact is to defend your self, and to Answer the Proof upon that, and that is we are to bear, and not to bear you tell the Story of all your Life ; and then if we should reply to these particular things, they will be such as most of them will vanish, and do you no Service, but take up a great deal of time : do not tell us a Story, but go on to finish the Matter of Fact.

Lient. Col. Lilburn. It has been your Favour to give me leave to tell it over to you, I pray give me leave to declare it to my Jury, who hath not heard it before, and it is very material to my Preservation, and my Life lies upon it ; therefore do not deal with me as Proctors, and ingaged Men, with those that thirst for my Blood, and laying aside that Evenhiness of hand betwixt both Parties, that ought to be in all Just and Righteous Judges.

Lord Keeble. 'Tis nothing to thus ; if it be any thing in the World to do you good, in the way of your Course of Defence, you should have it.

Lient. Col. Lilburn. Well if you let me go on no further to make my Defence, I cannot over-rule you, though you over-rule me, my Blood be upon your Heads, and the Lord God of Heaven and Earth reward you for all your Blood-thirsty Cruelty towards me his innocent Servant this Day ; and so I have done with it ; and what I have said I have done with it, and leave it to the Jury, earnestly begging and intreating them to take Notice of your Cruel and Unjust Dealing with me, in denying me all the Privileges of an English-man, when I am upon my Life.

Lord Keeble. What is material, you shall not be debarred in it.

Lient. Col. Lilburn. O Lord, Sir ! What strange Judges are you, that you will neither allow me Counsel to help me to plead ; nor suffer me my self to speak for my own Life ? Is this your Law and Justice, Sir ? I have no more to say but this, seeing you straiten me ; although you said you would,

would hear me till Midnight : I hope I have made it evident to all rational Men, that all or any part of the Testimony given in against me does not in the exact eye of this Law, in the least, touch me ; although I have been most Unjustly imprisoned, and most Barbarously used and Tyrannized over ; yea, and my Estate by Will and Power taken from me, that should have Kept me and mine alive ; and the Legal and Customary allowance of the *Tower* denied me to this Day ; and although I have used all Christian and Fair Means, to compole my Differences with my Adversaries ; but nothing would serve their turns, but I must have Oppression upon Oppression laid upon me, enough to break the back of a Horse ; and then, if I cry out of my Oppressions in any kind, I must have new Treason-shares made to catch me, many Months after their Oppressions were first laid upon me, that if I so much as whimper or speak, in the least, of their unjust Dealing with me, I must dye therefore as a Traitor : O miserable Servitude ! and miserable Bondage, in the first Year of England's Freedom ! I have now no more to say unto you, but only this ; your own Law tells me, Sir *Edward Cook* speaks it three or four times over in his 3. Part *Institutes*. That it is the Law of England that any by-stander may speak in the Prisoner's behalf, if he see any thing urg'd against him, contrary to Law, or do apprehend he fails short of urging any material thing that may serve for his Defence and Preservation. Here's your own Law for it, Sir. *Cook* is full and pregant to this Purpose, in his 3. part *Institutes*. vol. 29. 34. 37. But this hath several times been denied me, in the Case of Mr. *Sprat* my Solicitor, and now I demand it again, as my Right by Law, that he may speak a few words for me, according to his often desire, both to me, and the Court : I have almost done, Sir, only once again, I claim that as my Right which you have promised, that I should have Counsel to Matter of Law, and if you give but your own Promise, which is my undoubted Right by your own Law, and I fear not my Life : But if you again shall deny both these Legal Privileges, I shall desire my Jury to take Notice, that I aver, you rob me of the Benefit of the Law, and go about to Murther me, without and against Law, and therefore as a free-born English-man, and as a true Christian, that now stands in the Sight and Presence of God, with an upright Heart and Conscience, and with a cheerful countenance, cast my Life, and the Lives of all the Honest Free-men of *England*, into the Hands of God, and his Gracious Protection, and into the Care and Conscience, of my honest Jury and Fellow-Citizens, who I again declare by the Law of *England*, are the Conservators and sole Judges of my Life, having inherent in them alone, the Judicial Power of the Law, as well as Facts, you Judges that sit there, being no more, if they please, but Cyphers to pronounce the Sentence, or their Clerks, to say *Amen*, to them, being at the best, your Original, but the *Norman* Conquerors, Intruders, and therefore, you, Gentlemen of the Jury, my sole Judges, the Keepers of my Life, at whose hands, the Lord will require my Blood, in case you leave any part of my Indictment to the Cruel and Bloody Men : And therefore

I desire you to know your Power, and consider your Duty, born to God, to Me, to your own Selves, and to your Country; and the Gracious Al-
mighty Spirit, and Presence of the Lord God Omnipotent, the Governor
of Heaven and Earth, and all Things therein contained, go along with
you, give Counsel, and direct you, to do that which is just and for
His Glory.

[The People with aloud Voices, cryed, Amen, Amen, and gave an
extraordinary great Hurr, which made the the Judges look som-
thing wonderly about them, and caused Major General Skippon
to send for three more fresh Companies of Foot Soldiers.]

Mr. Attorney. Gentlemen of the Jury, You have heard the Evidence,
in behalf of the State; You have Heard the Instructions of the Prisoner
upon them, of calling you his Fellow-Citizens, and the like: He hath said
and spoken, we have proved, and it is in your Consciences to believe Proof,
before saying: the Prisoner began to cite you two Acts of Parliament: in
one the 1. of Edw. 6. and the other the 5. and 6. of Edw. 6. and by
those two AEs he would signify to you, that you should have two plain
and evident Witnesses to every particular Fact; yet he did forges to cite
another Statute, made in the first and second Year of Philip and Mary,
that overthrew and annihilated those two Statutes that would have two
plain Witnesses to every Fact of Treason, and in all Cases of Treason will
have them fied, according the common Course of Law the common Law
for the Tryal of them: if that must be material, or if that tick with
you, that you cannot determine it, my Lords the Judges will direct you
in it, and in all other Points of Law: But certainly that exception was
a little vain too; for we did not infift with one particular Witness in
nothing at all: For that of Newcomb, the Prisoner did not repeat fully
what he said: for I remember he said thus, that Mr. Lilburn, and Cap-
tain Jones, came together, and brought the Copy of the last Sheet that
was to be Printed: if one come with him, and the other delivered it to
the Prisoner, they are both equally Guilty alike: they came again the
same Day at Night, and when the first Sheet was Printed, to be sure, it
was true and right, that Mr. Lilburn did take the Pains to take one of
the Copies into his Hand, and Corretted it.

Lient. Col. Lilburn. By your Favour, Sir, he urg'd no such thing
by your Favour, Sir, they are the express Words of the Testimony, to
the quite contrary; and I wonder Mr. Pridessa you are not ashamed
to aver such notorious Falshoods, as you do, in the open Face of the
Court, before thousands of Witnesses; for Newcomb laid no such thing
as you fally affirm, neither is there any such Statute in Queen's Mar-
tine that doth abolish those two Statutes of Edw. 6. that I Infift upon
for two Witnesses, name your Statute if you can, here's the Statute
book, let the Jury hear it read, and do not abuse them with your impe-
dient Falshoods.

Mr. Attorney. Well, Sir, I leave it to the Judgment of the Jury
Sir: My Lord, as for all the rest, and particularly for that of the Sal-
Liber

Libertate, it is true, there is but one Witness which is sufficient enough by the fore-mentioned Act of Queen Mary; but, my Lord, is it under Mr. Lilburn's own hand, he will not deny it.

Lieut. Col. Lilburn. By your Favour, there is no Man so sworn, in the least, that it is my Hand, Jesus Christ denied none of his Accusation; yet when they went about to ensnare him by Questions, he answered Pilate, &c. Thou sayest so, go to those that heard me, they know what I said, why ask you me? Sir, I beseech you, produce your Act of Parliament in Queen Mary's time, to prove, in Cases of Treason, there ought to be but a single Witness.

Mr. Attorney. Do not interrupt me, Mr. Lilburn.

Lieut. Col. Lilburn. I pray you then do not urge that which is not Right nor True, but notoriously False; for if you persevere in't, I will interrupt you, and tell you of it to the Purpose.

Justice Jermyn. Though you do recite many things; yet I must tell you, the Law of the Land saith, the Counsel for the Commonwealth must be heard.

Lieut. Col. Lilburn. I beseech you then, let there be no more added to the Testimony, than Right and Truth; for my Life lies upon it, and I must and will declare the Business, and the Falseness of it.

Mr. Attorney. I would not do the tenth part of the hair of your Head wrong; but being intrusted, I shall do my Duty, and discharge my Conscience in my Place, which is fully and plainly to open that unto them, which in my Conscience I think a Right and Just.

Lieut. Col. Lilburn. I do repeat it thus, as in my Conscience, that he did say, when the Copy was first brought, Captain Jones gave him the Copy, and Captain Jones did agree with him for the Printing of it, and Captain Jones did read the Original to his Corrector; which Corrector amended the Printer's Faults, and that I had an uncorrected Sheet away, and that his Forms were taken before he had Perfected that.

Mr. Attorney. And Mr. Lilburn came the second Time.

Lieut. Col. Lilburn. Will you spend all Day in vain Repetitions? you would not give one leave to breath, nor freely to speak truth, without Interruption, although you were laying load upon me for five Hours together: I pray, Sir, do not now go about to tire the Jury with tedious Repetitions, nor to sophisticate or adulterate their Understandings with your Falshoods and Untruths.

Justice Jermyn. Mr. Lilburn, the Law of the Land is, that the Counsel for the State must speak last.

Lieut. Col. Lilburn. Sir, your Law is according to the Law of God, you said, and that Law I am sure, it will have no Man to bear false Witness; why doth Mr. Pridesaux tell the Jury such Falshoods, as he doth, and takes up six times more time to take away my Life, than you or he will allow me to defend it.

Mr. Attorney. For the Salva, that it was delivered in the Tower which is not in London, I hear not one Witness to prove that.

Lieut.

Lieut. Col. Lilburn. That is a disputable Point in Law, whether it be in London or Middlesex.

Mr. Attorney. And then, my Lord, as for the Agreement of the People, Mr. Lilburn says, it was dated the first of May, 1649, and it was before the Act was made; that is dated May, 1649, and it is before the Law was made in July, 1649. We do not question him for that; but when he comes to bring in these Books in August last; then he doth now publish that Agreement of the People, he invites them to set it up, as their Center, Standard, and Banner.

Lieut. Colonel. Lilburn. Let me not thus be trifled; that Book was never fixt upon me, I was never taxt to be the Author of it, or so much as the disposer of one of them. What baseness is this in you Mr. Prideaux thus falsely to use me.

Lord Keeble. He does you no wrong, but all the fair play that can be, he doth fix that Agreement no otherwise upon you, than by your Books alone.

Mr. Attorney. I do acknowledge the Agreement of the People that you are charged with is dated the 1. of May, 1649, and that the Evidence may allow this; as also, that that Agreement of the People that was then Published, and which you in your Books did own, was and is Signed by Mr. Walwin, Mr. Prince, and Mr. Overton, your Fellow-Pris-
ners, as well as your self.

Lieut. Col. Lilburn. There is no Book yet proved mine, and if that Agreement were mine, yet it is dated before both your Acts, and was in Print before they had a being; and therefore in the Eye of your own Law, can be no Transgression; and you your self doth not so much as accuse me for Publishing or Dispersing one of them, since your Acts were pub-
licly declared.

Mr. Attorney. That which you owned and signed, Mr. Lilburn.

Lieut. Col. Lilburn. By your Favour, Sir, I never Owned or Signed any Book that is proved against me yet, and no Book in the Eye of the Law can be accounted it mine, until it be Legally proved mine, or volun-
tarily confessed to be mine by my self.

Mr. Attorney. My Lord, that is own'd to be so Printed, when he shall come and recite the People, and stir them up upon those particulars therin contained, to insist with particulars, are the dissolving of the Parliament, the having of a new, and such other particulars therin contained; and that this Agreement shall be the Center, the Banner, and the waved Standard, unto which they shall flock, and to send Agents into several Countries to put this into Execution. Now, my Lords, for this Book it is not denied, but that there are two Witnesses, that the Pre-
parative

* Note that the Indictment chargeth no such thing upon Mr. Lilburn, neither was there any Proof at all brought so much as to accuse him of any such thing.

private to the Huc und Cry, was Owned by Mr. Lilburn to be his own; an Errour of the Printer only excepted; and that the Execution of the Roger likewise joins that. My Lords, I think there was not a Clash ready to you out of it, but what is full and home to the Purpose; and so for the One-Cry, the Printer's Testimony is complete; and the Legal Fundamental Liberties, is Owned by him in his Impeachment of High Treason against Lieutenant-General Cromwell, and his Son-in-Law, Commissary Ireton; and he doth there also sufficiently own the Agreement of the first of May: And, my Lords, I do not know that ever any thing, that was offered here in this Book, but was first proved in the Course. We do not often any thing of Errors that was past, to sue Mr. Lilburn upon any Speeches that fell from him however, although he hath sufficiently done it; but in much speaking, there was not Offence: it falleth here in this: Mr. Lilburn hath been very free in his Writing, in his Speaking, in his Printing, and is now riseth in Judgment against him, and the Law must now give him his due, which you, my Lords, are Sole Judges of, and from whom the Jury, and the Prisoner both doth receive, for all that which Mr. Lilburn hath said to the contrary. And the Jury answers to the Matter of Fact, and they are upon their Oaths Sworn to do the things that are Just and Right. My Lords, I shall leave the Evidence to them, with this Note or Observation upon it, that notwithstanding all Mr. Lilburn hath flourished and said; I will not say as he hath done, and seek by glossing Speeches or Insinuations, to wind into the Affections of the Jury, as he cunningly and smoothly hath done, by calling them his Fellow-Citizens and the like; you, Gentlemen of the Jury, you are to Answer now according to your own Consciences, betwixt God and you; your Oath is that you are not to Respect, Favour or Affection, nor to meddle with him upon my Report, than Injustice; and as it is already clearly witness'd and proved before you: My Lords, you have heard the several Charges he is accused upon, you have heard a great deal of foul Matter and Dirr, that is fit for nothing but to be cast upon the Ground, and return to Mr. Lilburn again; for truly when he cast it upon the purest Marble or Brass, it falls of again; God be thanked that it return to Mr. Lilburn the right owner; the Prisoner hath cast these Accusations, and these Blemishes upon others, but now they are upon the Ground they will fall off, and dash return and return upon his own Face; he hath taken a great deal of Paint to dig deep for Mistakes, nay for notorious and gross Calumnations, had he the Ingenuity to remember the Words of the Scripture, that he that he had digged for others, he is fallen into himself, he would have some Remorse of Conscience in him, but all the Mischiefs and all the Evils that can be thought upon, which he imagined to be upon others, is now most justly fallen upon himself: It is said of these fies, whose Master is Corruption, they always light upon sore Places, upon galled backs, upon Carrion, other Birds when they fly upon fair Meadow, will not touch these: Certainly the Parliament of England, the Army, all the Officers of it (whose fame both as Parliament and Army, all Men know

how in an extraordinary manner, are now put in a Ballance against Mr. Lilburn, but for the Army and the Officers of it, no Man can say but they have been faithful and true to their Duty, Gallant and Courageous, and extremely successful, to the Peace and Happiness of this Nation; and God is pleased at this Inſtrument to own them, and bless them in a miraculous Manner.

Lient. Col. Lilburn. And yet notwithstanding did not you help to Vote their Raynor once? I am sure I was in a Chamber in White-Hall last Year, when their Commissioners (now Members of your House) put your Name down in their black Bill, for a Malignant; but it seems you have recanted your Errors, and engaged to be a good acquiescing Creature, or else you had not been here this Day in the Condition you are in; but for all their faithfulness, you have they not rebelled twice against their Creators, Lords and Masters?

Mr. Attorney. Never Army hath done greater things, and yet they have not spared Mr. Lilburn's Tongue and Pen, they have not spared it, my Lord, but he hath taſhed them to the Purpose: I shall be as good as my word, nor it aggravate the Offences, for they are so vile, they aggravate themselves enough, and therefore I leave it thus, the untrouth, and the worth of it, as the Books themselves have offered themselves; but I shall say thus much more, the Honour of the Parliament of England, all the Magistracy therein, the Honour of the Government, the Honour and Renown of the Army, that hath done such great and wonderful things, is now at Stake against Mr. Lilburn; and there being a Law published that did give Warning; and Mr. Lilburn had but Tried for his Life sooner, upon my Knowledge, I say, Mr. Lilburn had but sooner Tried, and sooner Condemned and Executed, if the Law had but sooner made and published; but as he saith right well, where there is no Law, there is no Transgression, and therefore there being a Law against which he hath offended, he must smart for it.

Lient. Col. Lilburn. I am sure I was Imprisoned most unjustly, without any the least shadow or colour in Law, many Months before your Acts were made, and extremely oppressed; and now you go about to hang me as a Traitor, for at most, but crying out of your Oppression O. Unrighteous Men, the Lord in Mercy look upon me, and deliver me and every honest Man from you, the vileſt of Men.

Mr. Attorney. And that Law was published and proclaimed in the City, by means of which Mr. Lilburn and others, had timely Notice that they should not do such things as are there forbidden; it also told them the Penalties of it, which are those that are due for the Highest High Treason; and yet notwithstanding you see with what Boldness, with what Confidence, in despite of all Law and Authority, these Books have been made and published by Mr. Lilburn; and whereas he is pleased to say many times that many Men have petitioned for him to the Parliament, he will assure you, that ever he petitioned himself, but in all his Discourse here, he calls them, the present Men in Power, the Gentlemen

at Westminster ; nay, my Lord, he hath not so much as entered the Court of the Court since he came before you ; but hath often called you a knave and the like.

Lient. Col. Lilburn. That's no Treason, Sir, they justify themselves by present Power ; and would you hang me for not giving them a better title, than they themselves give to themselves ? I think the title of present Power or present Government, is a very fit title for them.

Mr. Attorney. My Lord, I have told you before, to the Jury, that you are Judges upon the Fact, and to you I now appeal for Justice, if you do believe, the Evidence is plain and full against him, for which he should be hanged, and so God direct all your Judgments. I have done.

Lient. Col. Lilburn. Sir, by your Favour, I shall desire to address my self in one word to you, which is to desire that the Jury may read the first Chapter of Queen Mary, in the Statute-book, and the last Clause of the Chapter of the thirteenth of Elizabeth, where they shall clearly see, especially in the Statute of Queen Mary, that they abhorred and detested the making of Words or Writing to be Treason, which is such a Snare and Snare, that no Man knows how to lay or do, or conceive himself ; as is excellently declared by the Statute of Hen. 4. v. 2.

I have done, Sir.

Lord Keeble. You, Gentlemen of the Jury, you are Sworn, you are Men of Conscience, Gravity and Understanding to tell you, if the Duties of your Place, that have gone through it so often, is a vain thing, the Sacredness of an Oath which a Man must not transgress in the least, nor above the World ; you have gone so often through it, and understand it, that I need say no more, the Charge you have heard, and the Proof ; but in Proof single or double, or treble, as some of them do amount unto a Witness in this, yea, that doth double another Man's Witness ; if I swear this thing, and another swear the same, a third the same, that is doubled upon all their Testimonies : Mr. Lilburn hath cited two Statutes of Edw. the sixth, to prove there must be two Witnesses ; but I must tell you, were there but one to each Fact, it were enough in Law ; for as for that which was cited of King Edw. the sixth, you have had it fully answered by a later Law of Queen Mary, which doth over-rule that, and also in 1553 that the Common Law of England shall be the Rule by which all Treasons shall be Tried, which reacheth to this Case too, that there should no more but one Witness, and this Law ; and therefore, Gentlemen of the Jury, that must not stick with you ; that which you have heard, to the concern you of the Truth of the Matters is this, you are not bound affirmatively to have two Witnesses, but in that one Witness with the Circumstances concurs, that is sufficient ; that which should prevail with you, is to consider the Strength of the Accusation, which rests in the Books, and doth consist in three Heads, which are laid down in the Books themselves, which doth in the first Place, so firmly express, and so far certify the Parliament and State as it is now established in England ; the second, doth look unto the Consels and Incitations of him for the stirring up

of Truth, Composers, and Works in this Nation; and the third, being cited in his Books to that End and Purpose to divide the Authors, and then the other will take the better effect: these are the three Charges, and these the Books that come from him, do so plainly shew that the Books are derived to him, you are fit Judges of; but indeed appear by looks his Books that these things were in his intention.

For these be they, it is a Book that does make a Man Guilty, the meaning that is intended or it is express: *Actus non facit reum nisi mens faciat.*

Now that Mind is set, when there is Faith published, but I relate you, the Books being admitted true, I say that notwithstanding that the Highest of Treasons be each done, both had so much Liberty in doing this, and as I said before, never Man of all Commission nor any other Person in England, had more indulged in such a Case, over him & his such a Court, in such an Auditory, such a Presence as he has had.

Lient. Col. Lilburn. The more is my sorrow.

Lord Scudamore. The more is your sorrow indeed, you have good Cause, be it lawful indeed, for this Act of yours thus declared, if your Intentions had taken effect, your Place were not granted, than ever England saw, for it struck at no less than the Subversion of this Common wealth, this State, to have laid, and one in all in Blood, your Plot was such, that never such was seen in the World before, it proceed from a private Motive you are, therefore it must needs be heavy upon your Conscience, therefore, my Masters of the Jury, look into your Conscience, and see what foul curse upon you, which no Bonds so much upon the Written Testimony are now plain and good in Law, in this Cause they are multiplied, Let me shew in this particular, that there is a Testimony single, but it is not ungrounded with many Circumstances, therefore let not that trouble you, you are the proper Judges of the Master of FAB, being of the Country, and if you have fully apprehended the dangerous things Pleated in the Books of Mr. Lilburn's, you will clearly find, that never was the high Treason hatched in England, and so in God's Name, as the Prisoner doth lead to your Conscience, so go and do.

Lient. Col. Lilb. I desire your Favour, that there may be a Court taken, that neither my Prosecutors, nor any belonging to them, may have Access unto the Jury, till they have done.

Justice Jermyn. You, Gentlemen of the Jury, I did expect it, it was expected by the Court, that some Master of Law, or some Question of Law, might arise upon the Evidence, which if it had, it was the Duty of the Court, to have cleared it, but there does not appear, and therefore there is an End, as to the Dispute of the Law.

Fore-man. We are no Lawyers indeed, my Lord.

Lient. Col. Lilburn. I have beg'd it, and you have promised it, that I should have Liberty to plead in Law, to the Illegalityes of the Indictment, but you have denied me that Legal Right, yes, you will not permit my Sollicitor, to speak a few words for me, I dare undertake, there was never such a Tryal upon English ground as this hath been, where

... You, Gentlemen of the Jury, who now are my Sole Judges, I pray
take Notice of it, and if you like it, I will

Justices Jermyn. There was never any such kind of abuse, applied to a
man as you have given, who never uses such Language, which any Court
of Justice before, that I did hear of as you have given, and certainly, the
Behaviour at the Bar, doth fit forth what the Honourable and Chivalter
the Mar^t is; for in this Case, if any such dangerous thing of Abusing
a Commission or Mutiny in the Army or in the Nation should have fol-
lowed, it had been too late then, so have thought of the Remedy, where-
as the Wisdome of the Parliament hath declared, that whatsoever shall
be Writing, Printing, or by openly Declaring, Publishing, that the present
Government of England is Usurp'd or Tyrannical, it is Treason, there
is the Fact, upon which all the Evidence doth depend, and you are to
say, whether in all those Books there be not, by Mr. Lillibull, a Tra-
itorially committed; and how clearly this does appear unto you, with
all Circumstances thereto belonging, I leave you to Judge, and how short
his pretended Replies are to be seen, or invalidate the Strength of the
Witnesses, I also leave you to Judge. I say, I might easily shew you, how
short his pretended Answers are of real Satisfaction, but I leave it to your
Indiscretions.

Lions. Col. Zilburn. Sir, my Answers are real Answers, not pretended ones, as you are pleased to call them.

ones, as you are pleased to call them.
Justice Jermyn. But in this Business the Evidence are sufficient to make a Man Guilty of Treason, for here was not simply a passionate All, or Inconsiderate Speech, but what he hath done Deliberately, and Advisedly, which is sufficient to make him or any Man, that so doth, Guilty of Treason. All this that was Published was in August, the 11th in July preceding. Now it is very true, and I will English it. For Mr. Lilburn, *Actus non facit reum nisi mens rea*: The All of a Man does not make him Guilty, unless his mind be Guilty; But I pray, how shall any Man know the Guilt of a Man's mind but by those Palliating and Enjoining Words that comes out of his Mouth? That's the mind, what I hear a Man say, I may lawfully say, he thinks; and it is a Rule in Law, that the answer word All, doth fetch toward Intentions, that very Rule I will not speak it in Latin, because I speak to you that does say, he doth not understand Latin; otherwise I could speak more Latin; now here is the Matter, whether or no upon the whole Evidence that you have heard, there doth not appear sufficient Matter to make this Prisoner Guilty, not of any but of advised and deliberate Treason, and so plainly of Plotting and Conceiving to raise Mutiny and Sedition in the Army, thereby totally to subvert and Destroy the present Government, and truly, I have not heard more of Skill has been used, and more Attempts made than I think you have heard, and do remember, I doubt not, but as you will take care of the Life of a Man, that you must not take away the Life of an Innocent, so you will be as careful of your own Souls, and the publick Safe-

With a host all clad in defens, and I pray God to direct my farrance
Lest I engagre in the wrong side, and to remoue all my malice.

Lient. Col. Lilburn. If you will not let me have Counselle, let the
Solicitor speak Matter of Law for me.

Justice Jermyn. Mr. Attorney, you must take care to suppose
this, he will not be unfeared by us, I pray desired Justice of the King
against him.

Lient. Col. Lilburn. Well, Sir, then I have done.

[The Juryman desired the Ale for Treason, and one of the Jury
desired to drink a Cup of Ale, for they had sat long, and had
longer the Debate of the Prisoner might last; the King said, then
they desired, that they might have amongst them a quart of Ale
to refresh them.]

Justice Jermyn. Gentlemen of the Jury, Behold for my part in the
very first that they have beene permissed to drink before the sentence of
the King, but in Case of Felony or Treason, I thinke so much to be bound
to, as I much arased for, and therefore you cannot have it.

But one of the Judges moved, they might have it.

Justice Jermyn. I may not give leave, to have my Conscience so
I dare not, and thus if the rest of the Judges be of Opinion, you shall
have a Light if you please, the fellow that keeps you shall help you
it, but first each you can have none, and therefore withdraw about your
Work.

Lient. Col. Lilburn. Sir, I understand the Officer that is to keep them
Door hath declared some thing of Bitternes of Spirit against me, I do
fear therefore, he may have some indifferent Man joyned with him to
I have this Ale, which was granted, and he Swear.

The Jury go forth about five or Six Clock, The Court adourned till six
Clock, and the Court Commanded the Lieutenant of the Tower, and the
Sheriff to carry the Prisoner into the Irish Chamber, whiche chamber
The Prisoner sat about three quarters of an Hour, and the Jury
came into the Court again; the Prisoner was sent for, and after the Crier
had couert Silence, the Juror Numbers were called, viz.

1 Miles Petty.

7 Edmonde Keyfay.

2 Stephen Iles.

8 Edward Perkins.

3 Abraham Smith.

9 Ralph Puckman.

4 John King.

10 Willian Commons.

5 Nicholas Murrell.

11 Simon Weston.

6 Thomas Dainty.

12 Henry Peoley.

Clerk. Are you agreed of your Verdict? Mr. Attorney, have you agreed of
Jury. Yes.

Clerk. Who shall speak for you? Mr. Attorney, I have agreed of
Jury. Our First-man.

Crym: John Lilburn, hold up thy Hand, what say you, (look upon
The Prisoner,) if he Guilty of the Treasons charged upon him: or if any
of them, or not Guilty?

Foreman: Not Guilty of all of them.

Clerk: Not of all the Treason, or any of them that are laid to his

charge.

Foreman: Not of all, nor of any one of them.

Clerk: Did he say for the same?

Foreman: No.

Which No being pronounced with a loud Voice, immediately the
whole Multitude of People in the Hall, for Joy of the Prisoners acquittal,
made such a loud and unanimous Shout, as is believed, was never heard
in Guild-Hall, which lasted for about half an Hour without intermission:
which made the Judges for Fear, Turn-pale, and hang down their Heads;
and the Prisoner stood silent at the Bar, rather more sad in his counte-
nance than he was before, but Silence being made,

Clerk: Then hearken to your Verdict, the Court hath heard it, you
say that John Lilburn is not Guilty of all the Treasons, laid unto his
charge, nor of any one of them, and so say you all, and that he did not

Jury: So, we do so.

Clerk: Gentlemen of the grand Inquest, the Court doth discharge
you.

And you, Gentlemen, of Life and Death, the Court doth discharge you.

Also, Lieutenant of the Tower, you are to carry your Prisoner to the Tower
again, and Major General Skippon is to Guard you, and all whom you
shall desire, are to assist you.

The Prisoner withdrawn, and the Court adjourned till Wednesday
following.

And extraordinary were the Acclamations for the Prisoner's Deli-
verance, as the like hath not been seen in England, which Acclamations,
and loud rejoicing Expressions, went quite through the Town, such
that the very Gates of the Tower, and for Joy the People caused that
night abundance of Bonfires to be made all up and down the Streets,
and yet notwithstanding the Law, his Advertising kept him after-
wards long in Prison, that the People wondered and began to grumble,
thats he was not Discharged, and divers of his Friends went to the Judges,
the Parliament, and Council of State, by whose Importunities, by the
seasonable Help of the Lord Grey of Groby, Colonel Ludlow, Mr. Re-
abinson, and Colonel Martin, his Discharge was procured, a Copy of which
thus followeth,

Privy Seal of the King. WODWOL. The

The COUNCIL of STATE's ORDER.

W^Herest Lieutenant Colonel John Lilburn, hath been committed to the Tower, upon Suspicion of High Treason, in Order to a Tryal or Law, which Tryal he hath received, and the Jury * equitted. These are therefore to will and require you upon sight hereof to Discharge and Sett Liberty the said Lieutenant Colonel John Lilburn, from his Imprisonment, for which this shall be your sufficient Warrant.

Given at the Council of State, at White-Hall, this
Day of November, 1649.

To the Lieutenant of the
Tower of London, or
to his Deputy.

Signed in the Name and by
Order of the Council of State
appointed by Authority of
Parliament.

JOHN BRADSHAW, President

Given at the Council of State, at White-Hall, this Day of November, 1649.

ADVERTISEMENT.

THERE being several Pamphlets, written by Lieutenant Colonel John Lilburn, [besides this Tryal,] Therefore all Gentlemen that have any of his Works by 'em, if they please to communicate them to the Printer, he having severall by him already, they shall be justly and faithfully Printed and Published, and the Favour most thankfully acknowledged, by

H. B.

LONDON: Printed in the Year 1650.